

DEVELOPMENT OF PANCHAYATS IN NEPAL

By

U. N. SINHA M. A. (Pat). Ph. D. (Saug)
Tri Chand College
Kathamandu, (Nepal).

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They have all helped me in many ways, but the responsibility for the opinions expressed in this work goes to me only.

U. N. Sinha

FOREWORD

This small book is based upon my thesis for Ph.D. degree submitted in Sagar University, M. P. India in 1965. Due to unavoidable reasons it could not be published for the last five years. In order to cover the developments of this period I have added a post script. Actually the purpose of this work has been to bring to the notice of the scholars the vast hidden materials on local as well as general administration of ancient Nepal. It may link the study of even ancient Indian administration on which detailed information is not available in North Indian inscriptions of that period. I accept that I am not competent enough to deal with this period being a student of Political Science. But I shall be satisfied if this work is able to infuse inquisitiveness in more competent scholars leading to further researches on pattern of administration in ancient Nepal.

I have differed from the interpretations of great Indian scholars here and there. I do not claim authority for the same. It is only because the readings of the inscriptions lead to no other conclusion. For reading of inscriptions I have mostly depended upon Gnoli's "Nepalese Inscriptions in Gupta Character." I have also availed of the interpretations and readings of "ITHIHAS SAMSODHANA MANDAL" Nepal as far as they were available. I have dared to differ at some places with the great scholar Yogi Nara Hari Nath of Nepal, but on the whole I have agreed with his interpretations. The larger portion of this work has been devoted to ancient period because I could not check the temptation to bring to the public the hidden treasures. The medieval period has been taken as a link only because it is a dark period for Nepal from the point of view of development of institutions. The whole of Nepal was fragmented into more than fifty principalities and it is due to this fact that sufficient material is not available on details of administration of that period. The few inscriptions and edicts available have been utilized and for the rest of informations I had mostly to depend upon the books and reports of the foreigners who visited Nepal during that period or stayed as diplomats. So far as the modern period is concerned I take the sole responsibility for the interpretations and informations which are based upon the orders of Rana Prime-ministers, the Acts of later period, and other information collected by me. On the whole it is only a brief depiction of the development of Panchayat covering a vast period of more than 1500 years, beginning from 364 A. D.

I am indebted to late Dr. M. P. Sharma of Sagar University who kindly consented to guide me inspite of his heavy engagements as Head of Department of Political Science and later as the Vice-Chancellor of the same University. Actually the whole

work has been the outcome of the advice and encouragement given by Dr. R. Argal M. A., Ph. D., D. Litt., of Nainital College, (who happened to be here on Indian Aid Mission as a professor of Political Science in Tribhuvan University, Kathmandu, Nepal) for which I must express my gratitude. I am equally obliged to Dr. Sudhakar Pandey of Sagar University, who helped me a lot in reading and interpreting the ancient inscriptions. I will fail in my duty if I do not express my gratitude to all those friends, who constantly helped me by dispatch of material from Kathmandu.

I have no words to express my gratitude to my wife Mrs. Rama Sinha, who while staying with me at Sagar helped me a lot in preparing the script and did not hesitate even to accept a job at Bhagalpur to relieve me of my heavy financial pressure.

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Finally I must accept that whatever achievements might be it goes to the credit of all and all the blames for failures are mine.

JAMAL,
Kathmandu.
(Nepal)

U. N. SINHA

PREFACE

The present work is an attempt at the study of the 'Development of Panchayats in Nepal.' The period of research spreads over 1500 years from 464 A. D. to 1964 A. D. The work has been divided into three parts and fourteen chapters. The first part which has seven chapters is devoted to the study of the subject in the Ancient period. The second part covering three chapters deals with the Panchayats in the medieval period. The third part discusses the modern period briefly in four chapters.

The subject is wide and comprehensive and so far no attempt seems to have been made to work on it. There have been many handicaps in the study of the subject. In absence of published works, the main sources of information have been inscriptions, manuscripts, etc. so far as the earlier period is concerned.

The special treatment given to the study of Panchayats of Licchavi period has its justification in the richness of materials in the inscriptions and the need for their interpretation. On the other hand, the study of the modern period had to be circumscribed within four chapters only because of the limitation of space.

I have followed the arrangement made by Gnoli for the systematic study of the inscriptions. Similarly with regard to the study of Licchavi inscriptions, I have tried to avoid the controversy over the two eras and accepted the version of Shri Babu Ram Acharya of Nepal, in taking the first Licchavi era as Shaka era beginning from 78 A.D. and the second Licchavi era as Mandeva era beginning from 556 A. D. .

Pandey Upendra Narain Sinha

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DEVELOPMENT OF PANCHAYATS IN NEPAL
PART I
THE ANCIENT PERIOD

CHAPTER I.

THE AREAS OF PANCHAYAT ADMINISTRATION

Local Governmental Institutions. in Hindu Culture :

The early Hindu society was marked by its community life. This was the main reason for the development of associate life in all its aspects, religion, learning, politics and economics. It was her elaborate system of local government, that has been responsible for the preservation of independence and individuality of Hindu culture.¹ It was due to this character of Hindu society that the village became the basic unit of administration in Nepal and it has continued to exist as a core of community life since times immemorial, inspite of political upheavels and changing political ideals of the dynasties that came in power. The winding chains of mountains and impregnable forests developed a spirit of isolation with small political units and infinite variety of local conditions. The communications were slower and harder than in the plains of India, therefore the villages had to play a vital role in the administration of local affairs and they existed as self-governing units in Nepal since early period.

The powerful local institutions in Nepal may be further ascribed to the meeting of two independent cultures—the Kirati (किराती) and the Aryan at the early stage of its civilization, both equally emphatic upon organized local units of administration with maximum of self-government at the lowest level. The first to rule over Nepal were the Kirats² who were followed by the Licchavis of Vaisali.³ I. S. Chemjung⁴ has quoted Hammerton, that during 4000 B.C. two civilized races existed in the northern part of the Persian gulf area. One of them called the 'Somer' tribe, moved to the Indo-Gangetic plains in about 3000 B. C. and entered Nepal. These 'Somer' people used to reside in their own independent villages, each under a chief or a king, and as

1. Mookergee, R. K. *Local Government in Ancient India*, p. 1.

2. Regmi, D. R.- *Ancient Nepal*, p. 13.

3. (a) *Gopalvansavali* p. 19.

‘अयं सूर्यवंश प्रभावेन्नेपालोकिरातराजान् निजित्यलिच्छिविवंश प्रवर्तते’
(b) *Pasupati Purana* 18/12.

जित्वा किरात राजानं वाक्येन प्रत्ययेन च ।

करिष्यति तदा राज्यं वंशाख्याधिपतिर्बली ।

Chemjung, I. S.- *Kirat Ko Itihas*, p. 5.

soon as their village was attacked and conquered, they moved to some safer regions to establish their independent village units. They became the *Kirats* of Nepal and the entire hill area was named as Kirat area.⁵ Thus the Kirats were the first to introduce a system of powerful village organization in the areas over which they ruled.

The early Aryan culture, which was equally deep rooted in the grounds of Nepal, influenced the Kirati institutions to a very large extent, specially because of its being a member of the Vrijji federation.⁶ Later the Licchavis who defeated the Kirats brought along with them a background of equally powerful republics, but they did not reject the existing system of the local institutions outright; rather they recasted them to suit their own view. As a result a new type of local system was organized in which the powerful Licchavi monarchy could coexist along with a powerful self-government at village level. However, this was more based upon the Hindu ideas than on Kirati.

A passage in the *Aitraya Brahmana* states that the people in the vicinity of the Himalayas like Uttara-kurus and Uttara-Madras had king-less or VI-RAT type of state.⁷ This fact is corroborated by the account of Huen-Tsang,⁸ who while writing about Kapilvastu (KIE-PI-LO-FA-SA-TU) mentions that there was no supreme ruler there and each town appointed its own chief or ruler.

In Vedic age the states were small. Therefore the village gained importance in the system of Hindu administration, and in later times, even when larger units were established, they continued to remain the pivot of administration in a rural society.⁹ In the earliest period; when the Aryans settled down in small knots of houses composed of several branches of families these small units were named as *Gramas*.¹⁰ It is possible that the *Grama* was originally the Gens in its military aspect, as we are led to believe from the military hierarchy under Limbuan¹¹ system of Nepal, but generally it seems to refer to the locality itself.

According to Zimmern,¹² *Grama* has been a lower sub-division of *Vis* and its importance increased because the chief occupation of the early people had been agriculture. Zimmern is inclined to believe that *Grama* was a clan midway between tribe and family. It is difficult to prove this fact, but it might not have been improbable that the newly-settled villages were mostly populated either by men of the same family or its original inhabitants and their dependants and servants. The very fact that the term *Grama* has been adopted in the Licchavi inscriptions of Nepal is enough

5. Kirk Patrik - *An Account of the Kingdom of Nepaul*, pp. 257-58.

6. Beal Samuel - *Travels of Huent Tsang* Vol. III, p. 336 (footnote).

7. Altekar A. S. - *State and Government in Ancient India*, p. 39.

8. Beal Samuel - *op. cit.* Vol. III, p. 268.

9. Altekar, A. S. - *op. cit.* p. 225.

10. Rapson, E. J. - *Cambridge History of India*, p. 81.

11. Chemjung, I. S. - *op. cit.* pp. 25-26.

12. Bandopadhyaya, N. C. - *Development of Hindu Polity* p. 57,

prove that its institutions were more akin to the early Hindu culture than anything else. But the *Gramas* of Nepal seem to be organised on the basis of family groups (rather than tribes), composed of all sections of people living together.

The Location of Areas :

The Licchavi inscriptions of Nepal so far available, begin from the *Changunarayana* (चंगुनारायण) inscription of Mandeva I dated 463 A.D.¹³ and end with the *Changunarayana* inscription of Shivadeva II dated 728 A. D.¹⁴ This period of 265 years seems to be the golden period of Nepal from the point of view of local autonomy.

The Grama: The inscriptions of this period supply us with valuable information about the *Gramas* and their various status at length. The earliest mention of *Gramas* occur in *Deo-Patana*¹⁵ (देवपाटन) inscription near Pasupati temple dated 476 A. D. The names mentioned are Dumlang Grama Pradese (दुमलंगग्राम प्रदेशे), Khaipun Grama Pradese (खैपुंग्राम प्रदेशे), Hmasprin Grama Pradese (हमस्प्रिगग्राम प्रदेशे), Biliviksa Pradese (बिलिविक्ष प्रदेशे) Vagvatipara Pradese (वाग्वतीपार प्रदेशे), Bemmayam (बेम्मायाम) Khainaspu Pradese (खैनास्पु प्रदेशे), and Dumpranggrama Pradese (दुमप्रन्गग्राम प्रदेशे).

Out of the above mentioned eight names the term *Grama* has been attached with four and *Pradese* with three, while neither *Grama* nor *Pradese* is mentioned with one. These names occur in connection with a land grant to the God, Ratnesvara by an organisation called Ratnasamgha. Another Mandeva inscription of TE-BAHAL¹⁶ (तेबहाल) dated 479 A. D. mentions the term Gumpadhsum Pradese (गुम्पद्धसुम प्रदेशे) only. This is also a land grant by Vanij Sarthvaha Guhamitra (वणिजसार्थवाह गुहमित्र) to the Sungod named Indra. Another *Deo-Patana*¹⁷ inscription of Mandeva records seven areas of which two names are illegible. The term *Grama* is missing in it. The five legible areas are: Pranprin Pradese (प्रानप्रि प्रदेशे), Maisin Pradese (मैशिन प्रदेशे), Votavoruso Pradese (वौतवौ-रुषा प्रदेशे), Sitatijolprim Pradese (सीताटीजोलिप्रि प्रदेशे), and Prayittikah Pradese (प्रयिट्टिक्का प्रदेशे). This is also in connection with a grant of land to the God, Prabukesvara by Prabhusamgha.

These inscriptions of Mandeva 1, do not supply us with the information whether the two units viz. *Grāma* and *Pradese* were the two layers of local self-governing institutions or not. Since the term *Pradese* has been attached with *Grama*

13. Gnoli, R.- *Nepalese Inscriptions in Gupta Characters*, No. 1.

14. *Ibid.*, No. LXXXIX.

15. *Ibid.*, No. VI

16. *Ibid.*, No. VII.

17. *Ibid.*, No. X.

also it seems the term *Pradesa* only denoted area and thus the term *Grama Pradesa* mentioned in the above inscriptions meant land in the vicinity of inhabited area within the village boundary while *PRADESE* used independently meant land in uninhabited areas outside the village boundaries.

The *Kevalpur*¹⁸ inscription of Jisnugupta clearly mentions that organized town and village units with self-government existed in Nepal during the age of the fore-fathers of Mandeva I, viz. Basuraja and Mahideva. This is a charter of powers to Nupunn Dranga (नुपुन्न द्रंग) or town issued by Jisnugupta during the latter part of the 6th century in which there is mention of existence of such powers and privileges during the fourth century also.

Post-Mandeva inscriptions are valuable sources for information about the various types of areas for the purpose of local administration. About thirty inscriptions of Licchavi period deal with the villages. Gnoli has mentioned 23 villages (*Grama*, *Dranga* etc.) as organized units of local administration with full-fledged *Panchayats* (*Panchali*) in them and there have been a few more inscriptions found after publication of Gnoli's book which deal with *Grama Panchayats* or other units of local administration. The names of *Gramas* mentioned in these inscriptions are: Jayapallika Grama (जयपल्लिका ग्राम), Khrapun Grama (ख्रपुं ग्राम), Kandu Grama (कन्दु ग्राम), Gundimaka Grama (गुण्डिमक ग्राम), Bugayumi Grama (बुगायुमि ग्राम), Jonjondin Grama (जोजोंदिन ग्राम), Cicita Grama (चिचित ग्राम), Daksinakoli Grama (दक्षिण कोली ग्राम), Ku Grama (कुग्राम) Pikhu, (पिखु), Saphana (सफान), Pogumake (पोगुमके) Po Grama (पोग्राम), Kulapi (कुलापी), Cuhu (चुहु), Gullatanga (गुल्लतंग), Nojnamidhan (नोजमिधान), Prodbhin Grama (प्रोद्भिन् ग्राम), Ganidu (गरिदु), Nupunn (नुपुन्न), Vaidya Grama (वेद्य ग्राम), and Yupa Grama (यूप ग्राम) mentioned by Gnoli¹⁹ and Mathang Grama (मथंग ग्राम), Bhuya Grama (भूय ग्राम), Uparimanalang Grama (उपरिमनलंग ग्राम) and Kalopi Grama (कलोपि ग्राम), mentioned in *Abhilekh Samgraha*²⁰

GRAMA-SAMUHA :

Besides these, there is a mention of three groups of villages in *Taujha*²¹ (तोझा) inscription of Patana and *Adesvara*²² (आदेश्वर) inscription of Kathmandu. The names mentioned are Thambugansul Mulvatika Gramesu (थाम्बूगांशुल मूल वाटिका

18. *Ibid.*, No. LIV

19. *Ibid.*, Nos. XII, XXV, XXVIII, XXXI, XXXIV, XXXIX, XLII, XLIV, LII, LIV, LVIII, LXI, LXVI, LIX, LXXIV, LXXVI, LXXVII and LXXX.

20. *Abhilekh Samgraha* Part I.-Inscription of KHAPICHEKO, BHASMESWARA and KATHESIMBHU. Part V. CHAPTOLE, NALA, MANGAL BAZAR, BALAMBU and MESEUM.

21. Gnoli, R. op cit No. I.
Ibid., No. LIII.

ग्रामेषु) Salanju Gramesu (सलन्जु ग्रामेषु) and Chogumyubisamatalanju Gramesu (चोगुम्युबीसामातलन्जु ग्रामेषु).

The reference of group of villages organized for the purpose of local administration has not been unique for Nepal. The term Samgrama (संग्राम) or village together or villages as collective unit has been mentioned in *Atharva Veda hymns* (XII. 1.56—ये संग्राम समितयः). During later times we get reference of villages meeting together for the sake of agreed decisions in the *Taittiriya Samhita* (संग्रामे संपते समय कामः).²³ The *Manava-Dharma Sastra* mentions *Grama-Samghas* which has been paraphrased as *Grama-Samuhas*.²⁴ The village was the unit of administration under the Cholas and the village community often composed of a group of villages.²⁵

Under the inscriptions of Nepal, the organization of a group of villages as one unit seems to have been undertaken for the purpose of functions requiring a larger unit. The *Taujha*²⁶ inscription mentions the group of Thambugansulmul Vatika Gramesu (थाम्बूगांशुल मूलवाटिका ग्रामेषु) in connection with the maintenance of a water course (TILMAKA). It is important to note that even where a group of villages has been addressed, the language applied for the address is the same as in case of an individual village. Therefore there seems to have the same corporate status granted to them as to an individual village.

Fortified and Non-Fortified Gramas :

Further the *Gramas* under the Nepalese inscriptions have been classified into fortified and non-fortified *Gramas*, the former having the privilege of non-entrance of regular and irregular policemen (अचाटभट अग्रवेश). Such fortified villages occur in five²⁷ inscriptions between 505 A.D. and 675 A.D. They are named as Jayapallika Grama (जयपल्लिका ग्राम), Gundimaka Grama (गुण्डिमक ग्राम), Konko (कोंको), Bilva-marga (बिल्व मार्ग), Husprindun (हुस्प्रिदुन), Nca Grama (न्च ग्राम) (the first part being illegible) and Vaidya Grama (वैद्य ग्राम).

The status of these villages has been explained in various ways (i) *Susthita Kotta Maryadha* (सुस्थित कोट्टमर्याद),²⁸ (ii) *Sarva Kottamaryado Papanatvad* (सर्वकोट्टमर्यादोपपन्त्वाव)²⁹, (iii) *Sarir Kottamaryado Papannah* (शरीर कोट्टमर्यादो पपन्न).³⁰ and (iv) *Sarirkotto Bhayaneka Maryado Papannah* (शरीर कोट्टोभयानेक मर्यादो

23. Jayswal, K.P. *Hindu Polity*. pp. 15-16.

24. *ibid.*, p. 233.

25. Majumdar, R.C. - *Ancient India*, p. 418.

26. Gnoli, R. op. cit. No. L.

27. *Ibid.*, Nos. XII, XXXIV, LXVI, LXXIII and LXXVI.

28. *Ibid.*, No. XII, line 9-10.

29. *Ibid.*, No. XXXIV line 8, and No. LXV, I line 13.

30. *Ibid.*, No. LXXIV, line 6, and No. LXXVI, line 5.

पपन्नः). The former two phrases mean 'along with full respect or sanctity of boundary', whereas the latter two read together seem to mean, the sanctity of person and boundary together'. It is worth noting that wherever such villages occur they are followed by detailed boudaries.

KHOH copper plate inscription of Parivrajaka Maharaja Hastin, 475 A. D. also records the gift of a village which had its boundaries fixed by trenches³³

Thus we come across there categories of *Gramas* in the Licchavi inscriptions of Nepal: (i) ordinary villages, (ii) villages with boundary walls or trenches and (iii) a group of villages. The existence of *Gramas* of various categories in Nepal has been further corroborated by the term 'villages of all levels' (सर्वतल) in *Lagantole* and *Lumjhya*³³ inscriptions of Nepal dated 626 A. D. However, the above mentioned two inscriptions have used the expression 'all layers' where the charter of powers to *Grama* and *Dranga* (town) together have been issued, carrying the same name viz. Daksinakoli Grama Drangasya Sarvatala Gramaih Sahitasya (दक्षिणकोलीग्राम द्रंगस्य सर्वतल ग्रामैः सहितस्य) and Yupa Grama Drangasya Sarvatala Sahitasya (यूपग्राम द्रंगस्य सर्वतल सहितस्य). This might have been done to clarify that the privileges granted were meant for the urban area as well as the *Gramas* of various layers that existed under the same name or within the limits of the same *Grama* with separate status. Where such mixed areas do not exist the term Sarvatala does not occur as we find in Changu Narayan, Balambu and many other inscriptions. Thus the existence of various layers of *Grama* areas in Nepal during Licchavis cannot be denied.

The DRANGAS (द्रंग) :

Another important unit of local administration mentioned in the Licchavi inscriptions of Nepal has been Dranga. Altogether fifteen names of Drangas occur in these inscriptions viz. Makoprm Satala Dranga (माकोप्रम सतलद्रंग), Nupunn Dranga (नुपुन्न द्रंग), Daksinakoli Grama Dranga (दक्षिणकोली ग्राम द्रंग), Yupa Grama Dranga (यूपग्रामद्रंग), Satalatidrangas (सतलसीतातिद्रंग),³⁵ Lembtidrangas (लम्बटी द्रंग), Hansgriha Dranga (हंसगृहद्रंग)³⁶ and Tamrakutta Sala (ताम्रकुट्ट शाला), Manesvara (मानेश्वर), Sambhpura (शम्भपुरा), Hmaspring (हम्स्प्रिंग), Puthapringa (पुथाप्रिंग), Jamayapti (जमयप्ती) and Pudatta (पुदट्ट),³⁷ The name of one Dranga³⁸ is illegible. Out of these fifteen Drangas the latter seven³⁹ were raised to the status of Drangatva or township at one time, while others are mentioned in the grant of

31. *Abhilekh Samgraha*, Pt. I, p. 36.

32. Mookerjee, R.K. - *The Gupta Empire*, p. 108.

33. Gnoli, op. cit., Nos. LXVI and LXVII.

34. *Ibid.*, Nos. LXVI and LXVIII.

35. *Ibid.*, Nos. XII and XIX.

36. *Abhilekh Samgrah*, Pt. I, pp. 30 & 36.

37. Gnoli, R. op. cit., No. LXXXIII.

38. *Ibid.*, No. XXIII.

39. *Ibid.*, No. LXXXIII.

powers issued in form of charters in their names. The use of term Graamadanga (ग्रामदंग) together in some inscriptions indicates that Dranga had a separate status and this is further emphasized in *Yengāhiti*⁴⁰ (येगाहिटी) inscription which runs "Dakshinakoli Gramasya Purvam Evam Dranga Chaturbhagatvena (दक्षिणकोलीग्रामस्य पूर्वम् एवं दंगं चतुर्भागत्वेन)." The inscriptions of *Lele* and *Ananantalingesvara*⁴¹ which are addressed to Lembti and Hansagriha Drangas respectively confirm, beyond doubt that the status of *Drangas* has been distinct from the *Gramas* and that the *Drangas* had higher status is supported by the *Narayana Chore*⁴² inscription, which raises a number of *Gramas* to the status of *Drangatva*.

The term "*Dranga*" has been given among the synonyms of *Nagari* or town by Hem Chandra, but Vachaspati ranks it below *Kharvata* and above *Pattana*. Stein (on *Rajtarangini* 11,291) establishes that in the Kashmerian chronicles at least *Drangā* denoted a guard-house erected near the mountain passes to prevent access to the valley and to collect custom duties and he cites a commentator of the *Makhakola*, who explains *Dranga* by *Raksasthana* or place of security."⁴³

Professor V. W. Karamblekar, interprets the term "*So-Dranga*" in the north Indian inscriptions of village donations as meaning "along with its town area or market area."⁴⁴ Yogi Naraharidas of Nepal takes it (*Dranga*) as a synonym of the term *Durga* and thus interprets it as fortified town area.⁴⁵ The classification of *Silpa-Ratnam*⁴⁶ puts *Durga* as an important area next to *Nagar* but higher in status than *Grāmā*, *Khetakā* and *Kharvatā*. Jayswal quotes the authorities like *Arthashastra*, *Ramāyana*, *Narada* and *Manu* to prove that the terms *paura*, *Nagārā* or *Durga* were used for capital between 600 B. C. and 600 A. D.

However, it is not possible for us to accept the interpretation of Dr. K. P. Jayswal for the simple reason that there is a mention of not less than fifteen *Drangas* in Nepal, as such it cannot be taken as meaning the capital town. Similarly Stein's version as quoted by Levy⁴⁷ that *Drangas* were either guard houses or custom collection offices, cannot be accepted, because firstly it has already been mentioned that the existence of *Drangās* as areas of local administration with corporate status cannot be denied and secondly because custom collection offices in the name of *Khetakā* frequently occurs in the Licchavi inscriptions of Nepal. It seems more logical to accept the classification of *Silparatnam* and authorities like Hem Chandra, Vachaspati⁴⁸ and Prof. Karamblekar⁴⁹ and take the term *Dranga* used in the

40. *Ibid.* No. LXI.

41. *Abhilekh Samgrah*, Pt. I, pp. 29-31.

42. *Ibid.*, Pt. I, pp. 35-38.

43. Gnoli, R. op. cit., No. LXXXIII.

44. Levy, S. - *Le Nepal* (English translation), pp. 132-33. Vol. III.

45. Karamblekar, V. W. - *Select Inscriptions*, p. 97.

46. *Itihas Prakas* (Nepali), p. 73.

47. *Indian Historical Quarterly* Vol. III, p. 825.

48. Levy, S. op. cit., p. 133, Vol. III.

49. *Ibid.*, pp. 132-33. Vol. III.

Nepalese inscriptions as town areas or market places or fortified *Grāma* areas with higher status.

The term *Gramā* itself does not seem to denote always a rural area in ancient days. Kautilya uses the word *Nagara* and *Durga* for capital and *Grāmā* for an ordinary town.⁵⁰ In a law text (BRIGU) quoted by Mitramisra⁵¹ both *paura* and *Gramās* have been called Vargins. Panini and Patanjali⁵² also take the term *Gramā* as town. Therefore it is difficult to take the various grades of *Gramās* mentioned in the Nepalese inscriptions as rural areas, but it cannot be denied that *Drāṅga* had a higher status than the *Gramās* of all types. On the whole there seems to exist four areas from the point of view of local administration viz. (i) *Drāṅga* (ii) Group of *Gramās* (iii) Fortified *Gramās* and (iv) Ordinary *Gramās*. Of these the last one seems to have been a fully rural area

50. Karamblekar, V. W. op. cit., p. 97.

51. Jayswal, K. P. op. cit., p. 237.

52. Ibid.

53. Ibid.

CHAPTER II

THE PANCHAYATS AND SOME SIMILAR INSTITUTIONS IN ANCIENT NEPAL

The PANCHALI (पांचाली) :

The Licchavi inscriptions of Nepal very frequently use two terms the PANCHALI (पांचाली) and the PANCHALIKAH (पांचालिकः). Out of fourteen inscriptions dealing with Panchayat, three¹ mention the term Panchali while the remaining eleven² use Panchalikhah.

The use of the two terms itself throws sufficient light on their prevalent meanings. Of the three inscriptions that mention Panchali, the Budha Nilkantha (बुद्धा नीलकण्ठ) inscription addresses 'Panchalinivasino' (पांचालीनिवासिनो) or the residents of Panchali, the *Lagantole* inscription of Yengahiti⁴ uses the term 'Sarva Panchali Kutumbinah' (सर्व पांचाली कुटुम्बिनः) or all the families of Panchali and the *Minandrayana*⁵ inscription mentions 'Panchali Bhojanam' (पांचाली भोजनम्) or the feasts of Panchali. Out of the inscriptions mentioning Panchalikhah (पांचालिकः), the Sundhara Patana⁶ inscription uses the phrase "Panchalikebhyeh Pratipaditam" (पांचालिकेभ्यः प्रतिपादितम्) or to be performed by the Panchaliks; *Wotutole*⁷ inscription addresses as "Panchalikan Yetha Prajanam" (पांचालिकान यथा प्रधानम्) or Panchaliks along with the chiefs; and the *Bringesvara Sonaguthi*⁸ inscription uses the address of "Panchalikan Prajanam (पांचालिकान प्रजानाम्) or the Panchaliks and the subjects. Thus the above two sets of inscriptions show that the term Panchali was used for Panchayat of our days while the term Panchalikhah meant the members of the Panchali or Panchayat. This interpretation is corroborated by the use of the two terms Janapada (जनपद) and Janapadah (जानपदाः) in

1. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. XXVII, XXXVI and LVIII.
2. *Ibid.*, Nos. XXXVIII, XLI, XL III, LI, LII, LV, LXXIX, LXXX, LXXXIII. and *Abhilakh Samgrah*, Pt. I, p. 31, Pt. V. pp. 15-16.
3. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. XXVII.
4. *Ibid.*, No. LVIII.
5. *Ibid.*, LII.
6. *Ibid.*, XXXVIII.
7. *Ibid.*, XLIII.
8. *Ibid.* No. LXXVIII.

Ramayana, *Mahabharat* and many other old books, of which Janapada has been interpreted as the institution while the Janapadah as the members of the Janapadah.⁹ Levy¹⁰ in concurrence with Bhagwanlal Indraji takes a similar stand in interpreting the term Panchalikhah as a derivative of Panchali. *The Gupta Inscription* No. 5 plate IIIB uses the term Panchamandali¹¹. J. K. Fleet has compared this term with the Panchali of Bhagwanlal Indraji inscription No. 10 and maintained that both these terms, the Panchamandali and Panchali carry the same meaning as the Panchayat of modern times. He also interprets the term Panchalika (of Bhagwanlal Indraji inscription No. 4) as meaning the members of Panchayat.

The GRAMA PANCHAYAT :

In the preceding chapter it has been discussed that from area point of view four types of local organizations have been mentioned in the Licchavi inscriptions viz., the fortified and non-fortified villages; group of villages or village and town; and the towns in the name of Drangas. There is no doubt that the term Panchali covered both the types of villages as well as the group of villages. The mention of the terms like Matingrama Panchalikebhyeh (माटिग्राम पांचालिकेभ्यः), Jolpin Grama Panchalikanam (जोल्पिग्राम पांचालिकानाम्), Punu, Loprim, Gigwal (गिग्वल), Hyanja (ह्यन्जा), Tegwal and Yugwal Grama Panchalis,¹² in various inscriptions and in various contexts is sufficient to prove the existence of Panchayats in the villages of Nepal, while the reference to the Bhringesvara Panchalikhah (भृंगेश्वर पांचालिकः) over a group of villages called the Angulyadi Gramah (अंगुल्यादि ग्रामाः) in the Sonaguthi¹³ inscription proves the organization of Panchayats over a group of villages also.

The DRANGA PANCHAYAT :

The *Golamadhitoile inscription*¹⁴ of Bhatagaon and the Lele¹⁵ inscription have been addressed to the Makhopram (माखोप्रेम) and Lembti Dranga with the traditional mention of the constituents of Panchali, viz. the inhabitants (निवासिनौ) the chiefs (प्रधानपुरस्सरान) and the families (कुटुम्बिनः), which proves the presence of Panchayat in them. The above fact is confirmed by the two Yenghahiti inscriptions for Daksinakoli. One¹⁶ of these two inscriptions uses Daksinakoli Gramadranga (दक्षिणकोलीग्रामद्रंग) while the other¹⁷ uses the phrase Sarva Panchalikutumbinah (सर्वपांचालीकुटुम्बिनः), thus leaving no doubt about the

9. Jayswal, K. P.- *Hindu Polity*, p. 230.

10. Levy, S. - *Le Nepal* (English translation), p. 84, Vol. III.

11. *Corp. Inscriptionum Indicarum*, Vol. III, p. 31 (foot note).

12. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. XXXVIII, LV, LXXIX and LXXX.

13. *Ibid.*, No. XXLVIII.

14. *Ibid.*, No. XXIV.

15. *Abhilekh Samgrah*, Pt. I, p. 31.

16. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. LXVI.

17. *Ibid.*, No. LVIII.

existence of the organized Panchayats in the units of town (Dranga) as well as group of town and villages (ग्रामद्वयं सर्वतलग्राम) together. These two types of Dranga or town Panchayats and Gramas or Village Panchayat mentioned here also seem to be the usual feature of the period. Out of more than a dozen towns mentioned in the Licchavi inscriptions the Daksinakoli Gramadranga mentioned in the Yenghahiti¹⁸ inscription and the Yupagramadranga mentioned in the Lumjhya¹⁹ inscription are clear instances of town and villages grouped together under the same organization. However, the instances of such grouping together of town and village under the same name and probably under the same organization have not been lacking in the Indian inscriptions of that period. Several inscriptions mention the donation of villages along with their town (सौद्वयं)²⁰ which proves the above fact.

The Narayan Chour²¹ inscription mentions that seven villages named as : Tamrakuttasala, Manesvara, Sambhapura, Hmasprig, Puthapring, Jamayapti and Pumdatta, were conferred the status of Drangatva or township. This proves that the town Panchayats had different status from that of the Village Panchayats. The ancient records and inscriptions reveal that two-fold democracy at local level was practised in North-India, one styled as Nigama which meant the town and the other Janapada which extended over a rural area.²² We do not find traces of a parallel institution of Janapada type, mentioned in the inscriptions of Nepal. However, evidence of separate Panchayats for Gramas and Drangas or towns is in abundance and in most cases separate status for towns and villages existed there, although evidence of Panchayats consisting of groups of villages, and of towns and villages is not lacking.

The SAMGHA:

Reference to Samgha has been made in, at least, half a dozen inscriptions belonging to the Licchavis of Nepal. Two inscriptions²³ of Pasupati temple mention the names of Ratnasamgha and Prabhusamgha in connection with land donations made to the Hindu gods. From the place as well as the term Lingasrit²⁴ used in one of them, it is evident that they belonged to the Shalva cult of Hindu religion. Two other inscriptions deal with Agraharas or religious donations in the name of Aryasamgha of Shivavihar.²⁵ Both these inscriptions use the term Chaturdis Aryabhiksu Samgha (चतुर्दश आर्यभिक्षु संघ), as such they definitely belonged to the Buddhist community. These inscriptions, therefore, leave no doubt about the fact that Samghas

18. *Ibid.*, No. LXVI.

19. *Ibid.*, No. LXVII.

20. Karamblekar, V.W.- *Selection Inscriptions*, p. 97.

21. Gnoli, R.- *Nepalese Inscriptions in Gupta Characters*, No. LXXXIII.

22. Bhandarkar, D. R.- *Some Aspects of Hindu Polity*, p. 118.

23. Gnoli, R.- *Nepalese Inscriptions in Gupta Characters*, Nos. VI and X.

24. *Ibid.*, No. X.

25. *Ibid.*, Nos. LXXIII and LXXIV.

existed both among the Hindus as well as the Buddhists. The Naksalnarayanchour inscription²⁶ which is a Maryadabandh (मर्यादाबन्ध) or status fixing inscription, declares the Samgha as a corporate body along with Dranga (or town) and Panchayats. The sixth inscription in the list (which deals with Samgha) is the Sanku inscription.²⁷ This mentions the terms Samghika Bhiksu Samgha (सांघिक भिक्षु संघ) which is definitely a Buddhist Samgha.

The *Sutras* of Panini²⁸ mention a number of names viz., Gana, Puga, Samgha, and Vrata. They mean association or aggregate of many men and, sometimes figuratively, of also the animals. Samghas thus covered the primary meaning of aggregate or union or association of various descriptions. N. C. Bandopadhyaya²⁹ rejects the interpretation of Jayswal that the term Gana, signified a form of government while Samgha signified a form of state. According to him both these terms meant corporate bodies. The *Mahābharat* Shanti Parvan³⁰ supports the above interpretation in mentioning that "the members of Gana are exactly equal to one another and, in case of quarrel between Kulas of the elders, if Kulas remain indifferent the Gana would be dissolved." It is evident here that so far as Gana was concerned it did not signify a government only. Probably some technical difference existed between Gana and Samgha but it disappeared by the time of early Buddhist literatures. Even the *Milinda Panho*³¹ uses both these words for the six great religious teachers viz., Buhdha, Mahavir, Gosala, Ajita, Sanjaya and Kasyapa, in calling them Samghi as well as Gani. Katyayana and Kautilya use the two terms in political sense, excepting Kautilya who uses it in a more general sense to cover the corporations also.³² Most probably the adoption of these institutions by the religious communities has been a later development, and therefore, their mention in the 5th and 6th century inscriptions of Nepal reveals that they were fully adopted by the religious institutions till that period. According to Professor Rhys Davis³³ the administration and judicial business of Gana and Samgha was carried out in public assembly at which young and old alike were present. According to Bhandarkar³⁴ "the Samgha does not denote a mere collection, which is signified by Samghata, but rather a combination of individuals for a definite purpose, a corporation." Thus a fraternity belonging to a religious belief, was a religious Samgha. Similarly Samghas for the purpose of trade or industry as well as political Samghas also existed.

26. *Ibid.*, No. LXXXIII.

27. *Ibid.*, No. LXXV.

28. Bhandarkar, D. R.- *Some Aspects of Hindu Polity*, p. 105.

29. Bandopadhyaya, N. C.- *Development of Hindu Polity*, p. 242.

30. Bhandarkar, D. R.- *Some Aspects of Hindu Polity*, p. 105.

31. Bandopadhyaya, N. C.- *Development of Hindu Polity*, p. 242.

32. Jayswal, K. P.- *Hindu Polity*, p. 28.

33. *Ibid.*, p. 44.

34. Bhandarkar, D. R. - *Some Aspects of Hindu Polity*, pp. 101-102.

The *Narayan Chour* inscription mentions the Panchali, the Dranga and the Samgha as corporate bodies³⁵ (नियोगाधिकृतं). The inscription of Yengahiti³⁶ which uses the expression "Dranga Chaturbhagatven" (द्रंगचतुर्भागत्वेन) or 'in all the four parts of Dranga' and the *Anantalingeshvārā inscription*³⁷ which is addressed to the Hansgriha Dranga prove that the Drangas were managed by the Panchayats of their own. Now the issue is whether the Samghas as in case of Drangas or towns, were subject to the Panchayats for their administration?

Pasupati Vajraghar and *Patana Yengubahal* inscriptions³⁸ are charters of Agrahartva in the name of Buddhist Arya Samgha, but these inscriptions do not mention the system of administration for these Agraharas. On the other hand the *Sundharā inscription*³⁹ which provides for Aksayanivi for Matin temple puts its management under Matin Grama Panchali. Similarly the *Yengahiti inscription*⁴⁰ mentions Agrahartva for Daksinakoli group of villages and town while another inscription of the same place⁴¹ has been addressed to the Brahman chiefs and all the families of Panchayat (ब्राह्मण प्रधान पुरस्सरान सर्वपांचाली कुटुम्बिनः). These two inscriptions together leave no doubt about the fact that the Hindu religious endowments were subject to the management by the Panchayats of the same place. The reference of Agraharas for Buddhist Samghas, therefore, leads us to believe that these Buddhist Agraharas or even the Samghas were also subject to the Panchayats of the place. Two more inscriptions may be referred to here in this connection. *The Gyanesvarā*⁴² inscription which is addressed to the residents of Nepal as a whole (नेपाल मण्डलान्तर निवासिनो), provides for the powers and aids for no other local institution than Panchayat. Similarly the *Harigāon*⁴³ inscription, which is more important in this respect, says that it is a recognition of position (प्रतिमान्यता) and is addressed to the families having land and house (गृहक्षेत्रादि कुटुम्बिनो), fixes annuity (श्रावणिकादानम्) for the two types of Panchayats viz., Sapela and Samanya (सापेल-सामान्य) and the Gaustikas (गौष्टिका) only. There is no mention of Samgha, Dranga or any other local institution in the above-mentioned inscription.⁴⁴ The absence of these institutions from the list leads us to believe that they were covered by the Panchayats.

According to D. R. Regmi,⁴⁵ Nepal belonged to the confederacy of the Vajjis. Majjhima Nikaya⁴⁶ while discussing the organization of the Buddhist Samghas refers

35. Gnoli, R.- *Nepalese Inscriptions in Gupta Characters*, No. LXXXIII.

36. *Ibid*, No. LXI.

37. *Abhilekh Samgrah*, Pt. I, p. 29.

38. Gnoli, R.- *Nepalese Inscriptions in Gupta Characters*, No. LXXIII and LXXIV.

39. *Ibid.*, No. XXXVIII.

40. *Ibid.*, No. LXVI.

41. *Ibid.*, No. LVIII.

42. *Abhilekh Samgraha*, Pt. V, pp. 16-17.

43. Gnoli, R.- *Nepalese Inscriptions in Gupta Characters*, No. XXXVI.

44. *Ibid.*

45. Regmi, D. R.- *Ancient and Medieval Nepal*, pp. 8-9.

46. Jayswal, K. P.- *Hindu Polity*, p. 23.

to the existence of Samghas as political institution of the Vajjis and Mallas. It mentions, "this is so, O' Gotama in respect of the Samgha, Gana, for instance the Vajjis, Mallas etc." On the authority of this reference Jayswal⁴⁷ feels that the Buddha adopted the name as well as the constitution of his Samgha from the political institutions of the Vajjis and the Mallas. This is enough to prove that the original political institutions of Nepal during pre-Licchavi period were named as the Samghas which the Licchavis re named as Panchali. This was done probably in order to distinguish the political institutions of the period from the prevailing religious institutions. Therefore the affinity between the existing local institutions and the religious Samghas cannot be ruled out. Two more factors are to be considered here namely : (i) that the names of the local institutions of Licchavi period of Nepal do not fully tally with those of Vaishali institutions mentioned in Basarh findings⁴⁸ and (ii) that the *Kevālpur inscription*,⁴⁹ which has been addressed to the Nupunn Dranga, mentions the continuity of these institutions from the time of the early Licchavi Kings of Nepal (Basuraj). The above two factors confirm our belief that the institution of Panchayat was adopted by the Licchavi monarchy, because they continued as the core of the political life of the place and the possibility of adoption of this institution in the name of Samgha by Buddha also cannot be ruled out. The above-mentioned facts are sufficient to prove the antiquity as well as the superiority of the system of Panchayat in Nepal over the religious Samghas. We may be justified in concluding that the Samgha were part of the Panchayat.

The GANAS :

The existence of Ganas as an important local institution during Licchavi age has been indicated by the mention of religious Ganas (धार्मिकगणानाम्) in the *Gairidhara*⁵⁰ *Patānā inscription*. The implication of the use of the adjective religious, with Ganas (धार्मिकगणानाम्) implies that non-religious or political Ganas also existed at that period. The above inscription has been addressed to the Shaivaite Hindu Ganas, because it mentions the God Bajresvara and Pasupati (भगवत बज्रेश्वरम् उद्दिश्य पशुपतानाम् च ब्राह्मणानां च) but the possibility of existence of such Ganas amongst the Buddhists also cannot be ruled out. The *Sānku*⁵¹ *inscription* which uses the term Samghik Bhiksu Samgha indicates that non-Samghik Bhiksus also might have existed at that period. The above inscription also mentions that, in course of time, if a doner requests (for an aid) he may be given 24 manik (मानिक) grain to the maximum (realising the measure of his calamity).

(कालान्तरेण यदि कदाचिद् दानपतित्वेन प्रार्थयन्ते आपत्सु तत्कालम् बुध्वा दानपतीनाम् धान्यान चतुर्विंशतिर्मानिका देया अतौधिकं दानपतिभिर्न ग्राह्यम् ।)

47. *Ibid.* p. 40.

48. Majumdar, R. C.-*Corporate Life in Ancient India*, p. 112.

49. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. LIV.

50. *Ibid.*, No. LXX.

51. *Ibid.*, No. LXXV.

It also warns that the money of the fund should in no case be hidden under ground (न तु ब्रव्यस्याक्षेपस).

Thus the provision of an emergency fund under these Ganas proves the importance of this institution at that period and there is no doubt about the fact that they played a very important role in the social and economic life of the people, in addition to their religious functions.

According to Dr. R. K. Mookerjee⁵² the name Gana was originally adopted because its sovereignty was vested in the Ganadhinah (गणाधीनाः) as contrasted with a monarchy or government by one man (एकाधीनाः). Amarsimha,⁵³ an author of early Gupta period, explains the constitutional term Rajaka and Rajanyaka as a Gana of the kings and a Gana of the Kshatriyas respectively. In *Avadāntasatākā*, Gana rule is taken as opposed to the royal rule. When the merchants of middle country who had gone to Deccan, were questioned by the king of Deccan as to who was the king in the north, they replied, 'Your Majesty, some countries are under Ganas and some under kings.'⁵⁴ *Achārāṅga Sutrā* of Jain literature uses the terms Do-Rayani (दो रायानि) and Gana-Rayani (गण रायानि), of which the former term means ruled by two persons while the latter, ruled by a number of persons.⁵⁵ Monier William translates this term as meaning a tribe, which has been accepted by Fleet. Buhler on the other hand means by it the corporation of tradesmen or workmen. Both the above interpretations have been rejected by K. P. Jayswal who has been of opinion that Gana denoted a form of government.⁵⁶ Shri N. C. Bandopadhyaya⁵⁷ disagrees with the interpretation of Jayswal and establishes that Gana meant a corporate body which seems to be more reasonable.

Later post-Vedic evidence shows a continued democratic development. Panini (about 500 B.C.) while illustrating his grammatical rules mentions Gana and Samgha to mean republic.⁵⁸ *Arthā Śāstra*⁵⁹ takes it as meaning a composite confederation of all associations. The Gana has been interpreted by Kullaka and a fraternity of Brahmins inhabiting a monastery, a fellowship by *Narāda* as a political self-governing corporation by Vyasa.⁶⁰ Roth⁶¹ points out that this term has been used in the sense of guild even in the Vedic literature.

52. Gnoli, R.- *Nepalese Inscriptions in Gupta Characters*, No. LXX.

53. *Journal of Indian History*, Vol. XL, p. 586.

54. Jayswal, K. P. - *Hindu Polity*, p. 16.

55. *Ibid.*, p. 16.

56. *Ibid.*, p. 22.

57. *Ibid.*, p. 22.

58. Bandopadhyaya, N. C.- *Development of Hindu Polity*, etc., p. 240.

59. *Journal of Indian History*, Vol. XL, p. 586.

60. Majumdar, R. C.- *Corporate Life in Ancient India*, p. 6.

61. *Ibid.*, p. 61.

In *Mahāvagga* (II,18) translated by Rhys Davis, Buddha prescribes: 'I prescribe O, Bhikkus, that you count (the Bhikkus) on the day of Upostha by method of Gana or by the method of ballot-counting.' Further Ganapuraka was an officer who saw whether the lawful quorum of an assembly was obtained.⁶² Thus Ganas might have remained as a form of government in the early period, when its primary meaning was a government by assembly while, in its secondary meaning, it was applied to the parliament or senate itself and since the republics were governed by Gana or assembly the term (Gana) came to mean a republic itself. But by the time of the legal commentators, it had lost its original political form and was taken as a general corporate body or assembly. Dr. Jolly in his translation of *Narada* interprets it as an assembly of cohabitants.⁶³

The second form of Samgha rule has been represented by Gana, which according to Katyayana, the author of a *Smṛiti* has been an aggregate of families (कुलानामतु समूहस्य-तु गणः).⁶⁴ The religious Samghas were often constituted after their political proto-type and so was the case of Ganas. The Jain Samghas⁶⁵ were split up into a number of Ganas, the Ganas into a number of Sakhas and the Sakhas into a number of Sambhogas and there is a possibility of a similar split-up of the political Ganas into a number of Kutumbins in Nepal. According to Jayswal,⁶⁶ a Jain text explains Gana with reference to a human society, as a group with the main characteristics of possessing a mind, "of being conscious." The text gives the examples of the Ganas of Mallas and Ganas of the Paura (i.e., Paura assembly). Thus the possibility of the political Ganas of Nepal being named as Panchali cannot be ruled out. Chapter 107 of *Shanti Parvan Mahabharat*⁶⁷ throws further light on this institution. The members of a Gana are said to be exactly equal to one another in respect of birth and family and it is expressly stated that in case of a quarrel among the Kulas (the same as Kutumbins of Nepal), the elders of the Kula by no means remain indifferent, otherwise the Gana would be dissolved. This clearly expresses that Ganas were the federation of families. We further learn that a selected few were appointed by a Gana from among themselves and were called Mukhyas or Chiefs as we also learn from Kautilya.⁶⁸ Thus the Ganas were tribal oligarchy or federation of clans according to *Mahabharat*. Each clan had its separate autonomy corresponding to the Kula-Samgha of the second type and all clans formed themselves into a tribal Samgha for self-preservation and common good. The possibility of the existence of political Ganas in addition to the religious Ganas mentioned in *Gairidhar*⁶⁹ inscription has already been indicated. This view is

62. *Ibid.*, p. 15.

63. Jayswal, K. P.- *Hindu Polity*, p. 22.

64. *Ibid.*, p. 25.

65. Bhandarkar, D. R.- *Some Aspects of Hindu Polity*, p. 105.

66. *Ibid.*, p. 105.

67. Jayswal, K. P.- *Hindu Polity*, p. 16.

68. Bhandarkar, D. R. - *Some Aspects of Hindu Polity*, p. 105.

69. *Ibid.*

70. Gnoli, R. - *Nepalese Inscriptions in Gupta Characters*, No. LXX.

further supplemented by the mention of Gana of Paura in Jain texts and the organization of the same mentioned in the Shanti Parvan. The inscriptions of Nepal invariably mention Niwasi, Kutumbins and Pradhana Purassaran of which the Pradhanas were the Chiefs or Mukhyas and the Kutumbins, the Kulas of the Shanti Parvan and the Panchali was the name given to the political Ganas of Nepal during Licchavi period.

CHAPTER III

THE ORGANIZATION OF PANCHAYAT

The Classification of Panchayat :

The Panchayat seems to have evolved into a regular body during Gupta period. It was known as Panch-Mandali in Central India and Grama Janapada in Bihar.¹ The Panchali of Nepal, on the other hand, seems to be a well-developed institution during the Licchavi period and as such its existence during the pre-Licchavi days cannot be ruled out. The organization of city and village during ancient days was identical and, therefore, the Gramas and Drangas of Nepal had definitely the same pattern from the organizational point of view. Both of them probably were divided into several wards, each ward being further sub-divided into several groups of house-holders as in the case of ancient India. Corresponding to the assemblies of the villages, the towns had their corporations.² The mention of Panchali for both villages and towns³ in Nepal clearly proves the above fact. However, the existence of Panchayats of two types having different status has been proved beyond doubt by the *Hārīgāon*⁴ inscription. It mentions the names of Sapela and Samanya Panchali in connection with a grant of annuity (श्रावणिकादानम्) to them. There is no mention of any other local institution (excepting Gosthi) in the above inscription. From the amount of annuity the relative position of various institutions mentioned therein can be easily ascertained. The Sapela gets larger annuity (of Pu-7, PA-1) while the Samanya gets a smaller annuity (of PU-3, PA-1) and this proves the superiority of Sapela in status. The term Sravanika Danam is a payment at the beginning of the fiscal year, which still begins from the month of Sravana in Nepal. Further the inscription has been addressed to the house-holders having land and house (गृहक्षेत्रादिकुटुम्बिनो), and as such the payment in the month of Sravana seems to tally with the harvest period. Levy also holds a similar view.⁵ The existence of two types of Panchalis, the Sapela and the Samanya in Nepal is thus established.

The existence of the above mentioned two types of Panchayats being proved, the issue is as to what this distinction actually stands for. There seems to be only

1. Altekar, A. S.-*State and Government in Ancient India*, p. 229.

2. Majumdar, R. C.-*Ancient India*, p. 15.

3. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. LV, LXXX, XXXVIII, XXIV and Abhilekh Samgrah, Pt. V. pp. 30-31.

4. *Ibid.*, No. XXXVI.

5. Levy, S.-*Le Nepal, Vol. III (English translation)*, p. 82.

two possibilities: (i) that it stands for Agrahara and Non-Agrahara Panchayats or (ii) for the town and village Panchayats. The mention of a separate status for Agrahara villages has been located in the inscription of Chola dynasty in India where an ordinary village council was named as Ur while an Agrahara as Sabha.⁶ But the possibility of the Sapela being a status for Agrahara is less because the *Deopatan*⁷ inscription mentions one Madhusudan Svamin as Samanya Panchalika. The name Madhusudan Svamin seems to suggest that he was a Brahmin and a Brahmin having been mentioned as a Samanya Panchalik raises doubt whether Sapela had anything to do with the status of Agrahara.

It seems more reasonable to relate the above two terms with the organizational classification of town or Dranga on the one hand and the village on the other. The above view is further strengthened by the *Narayana Chour*⁸ inscription which confers the status of Drangatva on seven villages. Thus Sapela seems to be the status of town Panchayat while Samanya that of an ordinary village Panchayat.

The term Sapela (सापेल) however has no parallel in the Indian inscriptions. V. S. Apte mentions a term Sapal (सपाल) which he interprets as meaning "along with the chief or the representative of the king."⁹ The above term seems to be nearer to Sapela (सापेल). The difference in the two terms may be due to either the local usage or misreading of the inscription itself. Therefore there is reason to believe that the Sapela Panchayats were those which were either attended by the tribal chiefs or had some official representatives. Either of the two possibilities cannot be ruled out. According to R. C. Majumdar the constitutions of village and corporations differed in different localities and probably at different periods and in some cases it consisted of all the male adults while in others it was a selected body.¹⁰ Since we find the Kutumbins or the family units represented in all the Panchayats of Nepal during that period, there seems to be little chance for the representation of the tribal chiefs in the Sapela Panchayats separately, and as such the only possibility seems to be of some sort of official or royal representation in them.

The Components of Panchayat :

Five inscriptions viz. *Thankot Chaukitar*, *Yengahiti*, *Sunaguthi* and *Balambu*¹¹ mention the (i) residents (निवासिनी), (ii) Brahmins, (iii) the Chiefs (प्रधानपुरस्सरान) and (iv) the house holders (कुटुम्बिनो) as the elements in their addresses. One of these inscriptions names a fifth element of Astadasa Prakritin (अष्टादशप्रकृतिन) also.

6. Altekar, A. S. op. cit., p. 230.

7. Gnoli, R., *Nepalese Inscriptions in Gupta Characters*, No. LXVIII.

8. *Ibid.* No. LXXXIII.

9. Apte, V. S., *Practical Sanskrit English Dictionary*, p. 1615.

10. Majumdar, R. C. op. cit., p. 423.

11. Gnoli, R., *Nepalese Inscriptions in Gupta Characters*, Nos. XII, XIX, LVIII, LXXVIII and XV.

A number of other inscriptions, not less than sixteen¹² viz. Mangalbazar, Golemadhitole, Tulachentole, Satungal, Khopasi, Chapagaon, Changunarain, Sanga, Bungamati, Bhansahiti, Kisipidi, Kevalpur, Thankota. Pasupati, Yengu Bahal, and Lagantole, mention, (i) Nivasino or residents (ii) Pradhan Purassaran or the chiefs and (iii) Kutumbino or the house-holders, these three elements only.

From the above two sets of inscriptions, it is evident that those villages which were dominated by Brahmins or taken as Agrahara villages had one additional element of Brahmin chiefs, represented in the Panchayats assembly while all other Panchayats were composed of three elements only viz. (i) the inhabitants (ii) the house-holders and (iii) the chiefs,

That the above elements were the components of the organization other than the Panchayat has been further confirmed by two inscriptions: viz. (i) the *Budhanilkant* inscription which is addressed to the residents, the chiefs and the village house-holders of the Panchayat (पांचाली निवासिनो यथा प्रधानं ग्राम कुटुम्बिनः) and (ii) the *Lagantole*¹³ inscription which has been addressed to the village resident, Brahmin chiefs and all Panchayat house-holders (ग्राम निवासिनो ब्राह्मण प्रधानपुरस्सरान सर्व पांचाली कुटुम्बिनः).

The Population :

Generally the Panchayats were organized on the basis of already existing village units, and as such the population consisted of the persons residing within the four-boundaries of those villages or towns to which the Panchayat belonged. This fact is proved by a number of Panchayats being called by the names of the villages viz. Matingrama Panchalikebhyah (माटिग्रामपांचालिकेभ्यः), Jolpin Grama Panchalikalah (जोल्पि ग्राम पांचालिका)¹⁴ etc. On the other hand evidence is not lacking for the Panchayats being organized either for smaller units than a village or for a larger unit composed of villages of all levels and village and town together. The instances for smaller units may be quoted in Adhahsala Panchali (अधःशाला पांचाली) and Gita Panchali (गीता पांचाली), whereas that of larger in Grama Dranga Panchali of Daksinakoli.¹⁵ Thus the possibility of some rules for maximum and minimum population for Samanya and Sapela is indicated. The phrases 'along with all levels' (सर्वतलसहितस्य)¹⁶ used in *Lumjhyà* inscription and 'villages of all levels' (सर्वतलग्रामेः), mentioned *Lagantole*¹⁷ inscription, indicate that the population varied from place to place.

12. *Ibid.*, Nos XXIII, XXIV, XXV, XXVIII, XXXIX, XXXI, XXXII, XXXVI, XXXVII, XLII, XLIV, LVI, LXXIII, LXXIV and LXXVII.

13. *Ibid.*, No. XXVII, and LVIII.

14. *Ibid.*, Nos. XXXVIII and LV.

15. *Ibid.*, Nos. LI and LII.

16. *Ibid.*, No. LXVII.

17. *Ibid.*, No. LXVII.

18. *Ibid.*, No. LXVI.

I. S. Chemjung¹⁹ has proved that, under the system of Limbuan (लिम्बुआन) state, there was provision of one chief or Thakpewa (थकपेवा) for every three hundred population. Since the Limbus have been a part of Kirata race, which was the earliest ruler of Nepal,²⁰ the above three hundred population may be taken as near population unit for the Panchayats during the Licchavi rulers who followed the Kiratas. Dr. R. C. Majumdar²¹ is of opinion that the number of population for village organizations in India varied between four hundred and one thousand. Nepal being a small and hilly state, a lesser population unit with less variations may also be possible.

The Kutumbins:

The mention of Nivasi and Kutumbin together in the Licchavi inscriptions leads us to believe that they were two distinct elements of Panchayat during this period. The term Kutumbin occurs in a number of contemporary Indian inscriptions also.

- (1) The Mathura image inscription²² of Vasudeva uses the term Kutumbikanam.
- (2) The charter of Vainyagupta²³ has been addressed to Brahmanadi Kutumbinah or Samvetan Kutumbinah just like the *Adinarāyaṇ*²⁴ inscription of Nepal which uses Brahmana Purassaran and Gramakutumbinah together.
- (3) Damodarpur plate No. 3²⁵ and Dhanaidaha plate²⁶ mention that applications from the intending purchasers were received by Gramika, Kutumbins Astadhi-karana and named and unnamed Brahmins.
- (4) The Vaigrama²⁷ plate uses Kutumbins along with Brahmins.
- (5) The land grants of Chandella²⁸ kings also mention Kutumbins along with Brahmins.

Dr. R. K. Dikshit²⁹ is of opinion that the term Kutumbins mentioned in the India Office plate of Gupta era 169 has been used in place of Ksetrakaran and therefore it carries the meaning of agriculturists rather than house-holders. Sukraniti³⁰ has mentioned that the king should always allot plots for the houses of Kutumbins within the town area and they should be allotted land according to their status. Thus from the documents mentioned above it is clear that "Kutumbins" was generally used to denote the agriculturists. The mention of Grihaksetradi Kutumbino in the Harigaon³¹

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19. Chemjung, I. S.-*Kirat Ko Itihas*, p. 26
 20. Regmi, D. R.-*Ancient Nepal*, p. 13.
 21. Majumdar, R. C.-*op. cit.*, p. 423.
 22. *Epigraphia Indica*, Vol. XXX, pt. V. p. 183.
 23. Kaiser Bahadur, K. C.-*Judicial Customs in Nepal*, (Assessment of) p. 282.
 24. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. XII.
 25. Paul, P. L.-*The Early History of Bengal*, Vol. I. p. 126.
 26. *Ibid.*
 27. *Ibid.*
 28. *Journal of U. P. Historical Society*, Vol. XXIII, Pt. 12, p. 244.
 29. *Ibid.*
 30. *Sukraniti* (Mihirchand), p. 92.
 31. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. XXXVI.

inscription supports the idea of their being employed in agricultural pursuits. However it may be useful to mention here that those inscriptions of Nepal which are addressed to the Brahmin elements in addition to the usual Nivasi, Kutumbins, and Pradhana Purassaran, nowhere use the term 'Brahman Kutumbino.' The same fact is indicated in Vainyagupta's charter,³² Damodarpur and Vaigrama plates³³ and the land grants of Chandella³⁴ kings mentioned already. This is probably due to the fact that agriculture was not a popular profession among the Brahmins,³⁵ and as such the Kutumbins generally denoted the non-Brahmin families who were mostly employed in agricultural pursuits.

Even in Vedic age every house-holder used to be an agriculturist and the importance of agriculture has been immense.³⁶ In the Rigvedic Society³⁷ social life was organized in a hierarchical order of institutions : (1) Griha or Kula, (2) Grama or village community, made up of house-hold as unit, (3) Union of villages or Vis and (4) Jana or nation. Manu and Gautama³⁸ refer to three orders of society to be represented in the Councils and Buddhayana³⁹ names the three orders of Brahmins as the students, the house-holders and hermits.

Therefore it is evident from the above-mentioned evidence that the Kutumbins referred in the addresses of Nepalese inscriptions were the most important units of the Panchayats. The whole of a village included many other elements viz. the hermits, the businessmen, the students etc. But the main emphasis was on the Kutumbins who were the main tax-payers and probably they composed the village assembly in Nepal.

Kautilya has interpreted the Kula as oligarchy of princes while the Puga has been interpreted as association of caste.⁴⁰ The Nepalese inscriptions nowhere use the above-mentioned two terms. This was probably due to the fact that the character of Licchavi society in Nepal was more democratic at local level. Even the caste character of Kautilya's concept seems to be less rigid in the Nepalese institutions of that period. This is indicated by the *Anant Lingesvara*⁴¹ inscription which makes simultaneous provision for the feasts for the Brahmans and Chandalas.

(व्रंग सीमाभ्यन्तर स्थानाभ्राह्मण प्रमुखानाम्मा चाण्डालेभ्यो घृताशन समितादि भोजनम् ।)

Further, the mention of Gana as an association of families in the Shanti Parvan of *Mahabharata*,⁴² also indicates that the organization of village assemblies was

32. Kaiser Bahadur, K. C. op. cit. p. 282.

33. Paul, P. L.-op. cit. Vol. I, p. 126.

34. *Journal of U.P. Historical Society*, Vol. XXIII, Pt. 12, p. 244.

35. *Journal of Bihar & Orissa Research Society*, Vol. VI, p. 98.

36. Bandopadhyaya, N. C.-*Development of Hindu Polity*, p. 56.

37. *Journal of Indian History*, Vol. XL, p. 583.

38. Mukerjee, R. K.-*Local Government in Ancient India*, p. 160.

39. *Ibid.*

40. Bhandarkar, D. R.-*Some Aspects of Hindu Polity*, p. 104.

41. *Abhilekh Samgrah*, Pt. V, p. 36.

42. Bhandarkar, D. R.-op. cit. p. 106.

based upon the units of Kutumbins, who were the main residents. There has been evidence from North India that all the respectable house-holders were entitled to become the primary members of Panchayat assembly during early period and the same fact is proved from the inscriptions from Maharashtra and Karnataka⁴³ also. Therefore the possibility of the Kutumbins composing the Panchayat assembly in Nepal is well established.

The Panchayat Executive :

The mention of Pradhana Purassaran in all those inscriptions which are addressed to either villages or towns of Nepal leads us to consider the possibility of the Pradhanas constituting the executive body of the Panchayat assembly. The *Lagan-tole*⁴⁴ inscription which uses the term of Pradhana Agrassaran instead of Pradhana Purassaran further justifies the interpretation of the Pradhanas being the chiefs of the villages. The *Sukraniti*⁴⁵ refers to the Pradhanas as responsible executive authorities. According to Petech,⁴⁶ the term "Pradhana was used for a general nobility during later Mall period", when the autonomy of the villages had faded away due to the feudalistic pattern of the society. Therefore there is every reason to believe that the Pradhanas who constituted the executive in the capacity of being the chiefs of the various sections of the village population continued as the chief or the nobility during later Mall period of Nepal.

The *Taittiriya Samhita* gives details of the ceremonies in which qualified men became Gramins or the leaders of village, and there has been mention in it of some such villages in which the owner of a village rose to that position with consent of Sajatas or Samanas.⁴⁷ The Indian commentators, according to N. C. Bandopadhyaya, explain the Gramin as an elected head of village.⁴⁸ It is important to point out here that the Nepalese inscriptions do not mention the terms like Gramin, Grampati or Gramavridhdhas. Therefore it may be concluded that the Pradhanas used to run the administration of a village or town on behalf of the Panchayats and they were assisted in their work by a number of Gosthis or committees. Evidence of such executive body is found both in North as well as South Indian inscriptions also. The office of the city magistrates of Pataliputra, described by Strabo seems to be an identical institution to the Pradhanas of Nepal. The above mentioned city magistrates are described as the Pauramukhyas or Pauravridhdhas who were popularly elected rather than appointed by the king.⁴⁹ Some inscriptions from Gujarata and Deccan⁵⁰ show that the village elders used to appoint formal executive committee variously known as Mahattara-

43. Altekar, A. S. *op. cit.* p. 228.

44. Gnoli, R. *Nepalese Inscriptions in Gupta Characters*, No. LXXVII.

45. *Sukraniti* (Mihirchand), Chap. 38, Sloka 89.

46. Petech, L. *Medieval History of Nepal*, p. 175.

47. Bandopadhyaya, N. C. *op. cit.* p. 57.

48. *Ibid.* p. 58.

49. Jayswal, K. P. *Hindu Polity*, p. 241.

50. Altekar, A. S. *op. cit.* p. 231.

dhikarins or Adhikari Mahattaras (both these expressions meaning the village elders in office or power). A similar development in contemporary Rajputana is found where the executive of the village assembly was known as Panchkula. In important cities like Kotivarsa or Pundravardhana,⁵¹ the district officer was helped by a board consisting of Nagar Sresthin, Sarthavaha, Prathama Kayastha etc.

Some villages in Karnataka had as many as six or even twelve headmen, who were usually chosen from the clan leaders and each branch was allotted office by rotation.⁵² The inscriptions of Chola dynasty mention that one of the most important functions of the primary village assembly was to elect its village executive which was known as Aluganam.⁵³ The Amala of the Kiratas⁵⁴ in Nepal consists of an executive of five leaders called the Subba, the Rai, the Karta, the Karobari and the Budhaili and a committee of ten among the Limbus of Nepal is still taken as essential for their tribal functions. Therefore, the existence of an executive body consisting of five to ten chiefs called the Pradhanas in Nepal seems to be an established fact. The general body of Panchayat being a large body, obviously it carried its administration through a small executive committee.

The *Mahabharata* (Shanti Parvan Chapter 107)⁵⁵ mentions the selection of a few members as Mukhyas or the chiefs of Ganas, as we learn from Kautilya⁵⁶ also. The mention of the two terms the Kutumbins and the Pradhanas together in the inscriptions therefore leads us to the conclusion that the Pradhana Purassaran constituted the cabinet of the Panchayat in Nepal, which seems to be a federation of various Kutumbins.

51. Paul, P. L.-*op. cit.* p. 125.

52. Altekar, A. S.-*op. cit.* p. 226.

53. *Ibid.* p. 231.

54. Chemjung, I. S.- *Kiral Ko Itihas*, p. 24.

55. Bhandarkar, D. R.-*op. cit.* p. 106.

56. *Ibid.*

CHAPTER IV

THE COMMITTEES AND SUB-COMMITTEES

Several Licchavi inscriptions prove that the Panchayats in Nepal were split up into a number of committees and sub-committees, each entrusted with a particular type of function. Out of the inscriptions which mention the existence of a committee or Gosthi (गोष्ठी), the *Cyasaltolē*¹ inscription uses the names of Karagosthi (कर गोष्ठी)² and Saptami Gosthi (सप्तमी गोष्ठी), while others mention the terms like Gausthika (गौष्ठिका), Gosthika (गोष्ठिका) or Gausthika (गोष्ठिक). The expressions used are: Pradip Gausthika (प्रदीप गौष्ठिका), Brahmana Gausthika (ब्राह्मण गौष्ठिका), Paniyagausthika (पानीय गौष्ठिका), Paulampaniya Gausthika (पौलम्पानीय गौष्ठिका), Malla-Yuddha Gausthika (मल्लयुद्ध गौष्ठिका), Dhoopa Gausthika (धूप गौष्ठिका), Indra Gausthika (इन्द्र गौष्ठिका), Vaditra. Gausthika (वादित्र गौष्ठिका), Archa Gausthika (अर्चा गौष्ठिका), Dhvaja Gausthika³ (ध्वज गौष्ठिका), Svajana Gosthika³ (स्वजन गोष्ठिका), Loprim Gramendra Gausthika Chetra⁴ (लोप्रि ग्रामेन्द्र गौष्ठिक क्षेत्र) and Dasami Gausthika Chetra⁵ (दशमी गौष्ठिक क्षेत्र) etc. Out of the four types of the uses, the former three i.e. the Gosthi (गोष्ठी), Gausthika (गोष्ठिका) and Gosthika (गोष्ठिका) seem to carry the sense of the committee or sub-committee. While Gausthika (गौष्ठिक) may be taken as a derivative of the former terms⁶ carrying the sense of the members of Panchali (पांचाली) and Panchalika (पांचालिक) as Janapada (जनपद) and Janapadah (जनपदाः). The above interpretation is supported by Dr. Basudeva Upadhyaya's⁷ view also, who interprets Gosthi as committee and Gausthika as its members.

The institution of Goshti is still prevalent in Nepal in the name of Guthi, both at official as well as socio-religious level. Officially it is used for religious trusts fully or partially controlled by government. At socio-religious level it exists as a very popular

1. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. LXXXIII.

2. *Ibid.*, No. XL and *Abhilekh Samgrah*, Pt. I, pp. 29-31.

3. *Abhilekh Samgrah*, Pt. I, p. 26.

4. Gnoli, R. *op. cit.*, No. LXXIII.

5. *Ibid.*, No. LXXIX.

6. Jayswal, K.P.-*Hindu Polity*, p. 230.

7. Upadhyaya, B.-*A Study of Ancient Indian Inscriptions*, p. 146.

institution among the Newars who are taken by some historians⁸ as the oldest tribe of the place. The Jyapus or the agriculturist Newars have a very powerful system of Guthi controlled by the older people like the Grama Vriddhas of Kautilya. It is all-purpose organization with socio-politico-religious functions combined in it for the group of Jyapus constituting it. A part of agricultural product is taken out as compulsory contribution and regular community feasts are managed by it. Apart from Jyapu class of Newars, the system of Guthi is very popularly used by the Newars as a whole and their number is still quite large. For instance : (1) Si Guthi (सीगुठी), (2) Sana Guthi (सन गुठी), (3) Vicha Guthi (विचा गुठी), (4) Phuki Guthi (फुकी गुठी), (5) Saphu Guthi (साफु गुठी), (6) Bahi Guthi (बाही गुठी), (7) Busadhon Guthi (बुसाधोंगुठी), (8) Tisabicha Guthi (तिसाबिचागुठी), (9) Dayaguthi (दायागुठी), (10) Gulabajo Guthi (गुलाबाजोगुठी), (11) Paicha Guthi (पेंचागुठी) and (12) Kumpainkh Guthi (कुपेंख गुठी).

According to Levy the ancient designation of Gosthi "applied to the Council of Parish survived in the actual name of Guthi."⁹ Levy believes that the institution of Gosthi and Panchali have been analogous and the Gosthi probably belonged to the Brahmanic religion while the Panchali to the Buddhistic.¹⁰ However the study of the inscriptions reveals that the Gosthi and Panchali were allied institutions, the former being a part of the latter and probably subservient to it.

- (1) The *Harigaon*¹¹ inscription places the Gausthika below the rank of the Panchali.
- (2) The *Kasaitole*¹² inscription, which mentions special status for Navagraha-gosthi also mentions that in case of some difference it will be decided by the Antarasana rather than the Panchayat. This proves that in case of other Gosthis, the Panchayats had superior jurisdiction.
- (3) There is not a single charter available, which has been addressed to a Gosthi. On the other hand donations made to the Gosthis are addressed to the villages or the Panchayats.¹³
- (4) A number of inscriptions prove the existence of several Gosthis¹⁴ within the four-walls of a Panchayat or village.

Against the possibility of Gosthis belonging to Brahmanic religion and Panchalis to the Buddhistic it may be said :

8. Regmi, D.R.-*The Ancient Nepal*, p. 13.
 9. Levy, S.-*Le Nepal*, Pt. III (English translation), p. 84.
 10. *Ibid.*, p. 101.
 11. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. XXXVI.
 12. *Ibid.*, No. LXVIII.
 13. *Abhilekh Samgrah*, Pt. I, pp. 20-31.
 14. *Ibid.* & Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. LXXXIII, LXXIX.

- (1) There is no mention of Panchayat in connection with the Buddhist religious trusts. On the other hand *pāsupativajrāgharā*¹⁵ and *Yengu Bahāl Tole inscriptions* refer to the Aryasamgha for Buddhistic Agrahara management.
- (2) The Ganesh temple¹⁶ and *Sundhara pātāna inscriptions* entrust the management of Hindu religious trusts with Adhasala and Matin Grama Panchayats respectively.
- (3) The Indian inscription of Dharma Vardhana mentions the gifts of Bodhagothi¹⁷ which is a clear example of use of Gosthis by the Buddhistic temples also.

Therefore it is not possible to agree with Levy that the Gosthis and the Panchali were analogous institutions, one belonging to the Brahmanic and the other to the Buddhistic religion.

The existence of Gosthis in ancient India has been proved by many inscriptions from India:

- (i) The *paheva*¹⁸ inscription from the temple of Garibnath (Karnataka) refers to donations to a number of temples and the management of the charities are entrusted to the "Gosthis, or members of a committee or Pancha who also had to look to the collection of money."¹⁹ These Gosthis were selected from the most respectable inhabitants of the place.
- (ii) Another inscription of the reign of Bhojadeva of Kanauj dated 862 A. D. mentions name of a Gosthi.²⁰
- (iii) A Chalukya²¹ charter of 1207 A. D. also mentions Gosthi.
- (iv) Some of the *Bhattiprolu*²² inscriptions which, according to Buhler, are not later than 200 B. C. record gifts made by Gosthis of which the inscription No. 3 mentions the names of their members.
- (v) In *Deopara*²³ inscription of Vyagrasena, the scribe Sulapani has been described as Varendra-Silpi-Gosthi-Chudamani.

According to Buhler, 'a Gosthi is a committee of trustees in charge of a temple or of a charitable foundations.'²⁴ - According to Dr. Basudeva Upadhyaya,²⁵ "it has been used for samiti or committee" of any type. From the study of the Nepalese inscriptions the range of its functions does not seem to be limited to the temples, or

15. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. LXXIII and LXXIV.

16. *Ibid.*, Nos. XLI and XXXVIII.

17. *Epigraphia Indica*, Vol. II, pp. 99-100.

18. *Ibid.*, Vol. I, p. 186.

19. *Ibid.*, p. 186.

20. *Ibid.*, Vol. IV, p. 309.

21. *Indian Antiquary*, Vol. XI, p. 338.

22. *Epigraphia Indica*, Vol. II, p. 325.

23. Paul, P.L.-*Early History of Bengal*, p. 130.

24. *Epigraphia Indica*, Vol. II, p. 99.

25. Upadhyaya, B.-*op. cit.*, p. 146.

religious trusts. The mention of Dasami²⁶ or tenth Gosthi in *Narayana temple inscription* and Saptami²⁷ or seventh Gosthi in *Nangāsāl inscription* indicates the existence of a number of Gosthis at those places as well as their general use. Names like Navagraha Gosthi, Gramendra Gosthi, Mallayuddha Gosthi²⁸ reveal their use for non-religious and administrative purposes, while Archa Gosthi, Dhvaj Gosthi, Brahmana Gosthi²⁹ reveal their religious character. Therefore, it does not seem that the functions of Gosthis were limited only to the religious trusts or temple management as Buhler thinks. The instances from contemporary inscriptions of India mentioning the use of committees or Gosthis for administrative purposes at local level have not been lacking. Dr. R. C. Majumdar³⁰ mentions the existence of a large number of committees in a South Indian village viz. (i) Committee for annual supervision, (ii) Committee for charities, (iii) Committee for tanks, (iv) Committee for gardens, (v) Committee for gold supervision, (vi) Committee for the supervision of wards, (vii) Committee for supervision and management of fields, (viii) Committee for supervision of justice, (ix) Committee for management of temples and (x) Committee for the supervision of ascetics.

The Composition of Committees :

Strabo mentions a board of five persons and a full board of thirty at Pataliputra. This arrangement has been similar to the quorum of three, five, ten, twenty and upwards in the Parisad of law, the Buddhist Samgha and the Panchaka, Dasaka and Vimsaka Samghas of Patanjali.³¹ In - Buddhist Samghas,³² certain matters of greatest importance could be discussed and decided by quorums of twenty and upwards only. The numbers five and thirty for the boards mentioned by Strabo, correspond to the inner and outer council of the Ramayana³³ also.

Evidence of later *Smritis*³⁴ also throws some light on the composition of the committees or boards or executive body during ancient period. According to Brihaspati, the board should be composed of from two to five persons, selected from the best men of the community. "Honest persons acquainted with Vedas and with duty, able, self-controlled, springing from noble families and skilled in every business shall be appointed as heads of an association." These members were called Samuhahitavadin and Karyacintaka because of the responsibility given to them.³⁵

Manu (XII-III)³⁶—mentions that three persons each having knowledge of Vedas, a logician, a Mimamsaka, one who knows the Nirukta, one who recites the sacred law

26. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. LXXIX.

27. *Ibid.*, No. LXXXIII.

28. *Ibid.*, Nos. LXVIII, LXXIII & *Abhilekh Samgraha*, Pt. I, p. 31.

29. *Abhilekh Samgrah*, Pt. I, pp. 29-31.

30. Majumdar, R.C.-*Ancient India*, pp. 423-24.

31. Jayswal, K P.-*op. cit.*, pp. 241-42.

32. *Ibid.*

33. Jayswal, K.P.-*Hindu Polity*, pp. 241-42.

34. Mookerjee, R.K.-*Local Government in Ancient India*, pp. 157-58.

35. *Ibid.*, pp. 158-59.

and three men belonging to the first three orders shall constitute an assembly consisting of, at least, ten members.

Gautama³⁷—mentions that an assembly shall consist of, at least, ten members viz. four men who have completely studied the four Vedas, three men belonging to the three orders of society and three men who know the three institutions of law.

Buddhayana³⁸—prescribes that four men, who each know one of the four Vedas, a Mimamsaka, one who knows Angas, one who recites the sacred law, and three Brahmanas belonging to three different orders (students, house holders and hermits) should constitute a committee composed of, at least, ten persons.

Two inscriptions of Vaikuntha temple of Uttaramellur³⁹ throw interesting light on the composition of different committees. The Annual Committee or Samvatsar Gramavariyam seems to be a very influential body and was composed of those persons who had already served in Garden Committee and Tank Committee. The above Annual Committee and the Panchawara Committee consisted of twelve members each, while the Tank and Gold Committee each consisted of six members only.

The System of Election of Committees :

A detailed description about the eligibility for membership and the system of election of the committees has been given by Dr. R. C. Majumdar⁴⁰ and Dr. Altekar.⁴¹ The village of Uttara Mellur was divided into thirty wards. The inhabitants of each ward assembled to draw up the list of the persons eligible for the membership of various committees. The qualifications for eligibility were :

- (a) age between thirty five and seventy years.
- (b) ownership of a house and, at least, one fourth Veli or two acres of tax-paying land.

- (c) some educational qualifications.

The disqualifications were :

- (a) guilty of not submitting the accounts.
- (b) guilty of five great sins (when the person along with his kinsmen and relatives was declared ineligible).
- (c) guilty of various malpractices and offences.

One person was elected by the voters from each ward by lottery. Several nominations were made for each of the thirty wards of the village. The names of the candidates were put in a pot and a young child, who was quite innocent, was asked

36. *Ibid.*

37. *Ibid.*

38. *Ibid.*

39. Mookerjee, R.K.-*Local Government in Ancient India*, p. 167.

40. Majumdar, R.C.-*Ancient India*, p. 424.

41. Altekar, A.S.-*State and Government in Ancient India*, p. 232.

to pick up one ticket, thus leaving no room for any canvassing or politics. Every possible precaution was taken to ensure fair play in the matter. These thirty persons thus elected were allotted seats in different committees. Elaborate rules were laid down for the election of the committees and precautions were taken to avoid the evils of popular and democratic elections without touching the spirit of democracy. Only those persons were included in a committee who had not been included in it for the last three years. According to Dr. Altekar⁴² the property qualifications were reduced to half in case of good scholars either of Vedic learning or Smriti or Bhasya. All the members of such committees held their office for one year in honorary capacity. They could, however, be removed earlier if found guilty of mis-conduct.

Dr. Altekar is of opinion that the sub-committees or committees of Chola type did not exist in North India.⁴³ This raises the issue whether the Gosthis of Nepal were constituted on some other basis. The existence of the village councils or Panch mandalis of Gupta inscriptions and Panchkulis of medieval records composed of five members has been accepted by the above author. The mention of a committee of thirty along with a number of sub-committees in Pataliputra by Strabo⁴⁴ and the mention of Gosthi in *Bhojadeva's*⁴⁵ inscription of Kanauj proves the existence of similar system in North India as mentioned in *Chola inscription*. The Licchavi inscriptions of Nepal which fall in the range of Gupta period indicate existence of a number of Gosthis. Therefore use of committees and sub-committees both in North India and Nepal between 200 B. C. and 900 A. D. cannot be denied.

The rules of election and qualifications of members of these committees might have varied from place to place, and as such there has been possibility of both systems of election by lot as in Uttaramellur⁴⁶ or the system of Salaka⁴⁷ mentioned in Buddhist records. There is greater possibility of influence of the *Smritis*⁴⁸ in fixing the qualifications of the members of Gosthi and Gausthika in Nepal. The composition of these committees and sub-committees is indicated by Parisad of Law, System of Buddhist Samghas and Patanjali,⁴⁹ which mention the number between five and twenty as well as the *Ramayana* (inner and outer council) and Pataliputra council which varied between five and thirty.⁵⁰

The inscriptions of Nepal do not throw light either on the system of election of the Gosthis or on their composition. But the system of Amala⁵¹ which may be

42. Altekar, A.S.-*State and Government in Ancient India*, p. 230.

43. *Ibid.* p. 232.

44. Jayswal K.P.-*op. cit.*, pp. 241-42.

45. *Epigraphia Indica*, V. IV, p. 309.

46. Majumdar, R.C.-*Ancient India*, p. 424.

47. *Journal of U.P. Historical Society*, V. XII Pt. IV p. 66.

48. Mookerjee, R.K.-*Local Government in Ancient India*, pp. 158-60.

49. Jayswal K.P.-*op. cit.*, pp. 241-42.

50. *Ibid.*

51. Chemjung, I.S.-*Kirat Ko Itihas*, pp. 24-25.

taken as a parallel institution of Gosthi prevalent among the Kiratas of Nepal recognises a committee of five members. On the other hand a committee of ten is popular among the Limbus, a section of the Kirata tribe.⁵² Both these numbers tally with the numbers mentioned in ancient scriptures and records from India. The tradition of Newars of Nepal, however, does not put a barrier to the number of members of their Guthi, but generally it does not exceed forty. Therefore the number of the members of committees and sub-committees in Nepal seems to have varied between five and forty. Since the term Gosthi and Gausthika both occur in the inscriptions, the possibility of Gausthika being the sub-committee while Gosthi being the committee may be suggested.

52. *Ibid.* p. 26

CHAPTER V

THE POWERS AND FUNCTIONS OF PANCHAYATS IN ANCIENT NEPAL

Panchayat Autonomy :

The panchayats were corporate bodies with powers to own and sell property for public purposes. They exercised practically all powers of the state within their sphere of activities. They possessed extreme judicial powers, were trustees for public charities and managed the religious temples, rest houses, public parks, and had powers vested in them for this purpose. They regulated markets, imposed taxes and sometimes levied extra-tolls for specific objects of public utility. Some of the regulations passed by them were subject to Royal confirmation. On the other hand, any Royal charter affecting the status of a village had to be sent for the approval, to the village assembly before it was sent to the record office.¹

A general survey of the inscriptions of Licchavi period confirms, that the powers granted to the panchayats were very liberal. The state had the supreme authority, no doubt, but the general tendency was to curb the powers of the state officials in order to allow a broad canvas for the activities of the local institutions. Thus the panchayats enjoyed all the residuary powers, left out by the central government after defining its own field of action. The *inscriptions of Adinarayana and Yengahiti*² define the status of a village as Sarvakottamaryadopapannah (सर्वकोट्टमय्यादोपपन्नः) or "subject to full jurisdiction within its boundary." Another two inscriptions located at Pasupati Vajraghara and Yengubahal Tole,³ use the expression "Sarir Kotta Maryado Papannah (शरीरकोट्टमय्यादोपपन्नः)" which may be interpreted as "subject to full jurisdiction over the persons as well as other things in the area." Levy⁴ defines the above expression used in *Yengu Bahal Tole inscription* as "the village conceded is subject to the stipulations bearing on the persons or fortified places." However this stipulation which a village was subjected to, has been clarified by the expression "Chata Bhata Apravesa (चाटभटअप्रवेश)" mentioned side by side

1. Majumdar, R. C.-*Ancient India*, pp. 421-22.

2. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. XII and LXVI.

3. *Ibid.*, Nos. LXXIII and LXXIV.

4. Levy, S.-*Le Nepal*, Pt. III (English translation) p. 122.

in the same inscription which means restrictions on the entry of regular and irregular soldiers. This indicates that as soon as the boundary of a village was defined it was vested with all the powers and authorities to manage the internal law, order and defence itself, so that no outside help from regular and irregular soldiers or policemen was required. The *inscription of Changunarayana*⁵ throws further light on the powers of a village. This inscription which is meant for defining the boundary of Gundimaka village, after mentioning its status as "subject to the jurisdiction within its boundary and non-entrance of regular and irregular soldiers," warns that "if the government officials or others are found creating any trouble within this area they shall be severely punished."⁶ This clearly indicates that along with the fixation of boundary not only the regular and irregular soldiers were banned from entering the village, but even the government officials were restricted from interfering with its functions which amounted to the possession of all administrative as well as judicial powers by it.

Within this concept of local autonomy there seems to exist two classes of panchayats from the point of view of powers : (i) those which were subject to the regular supervision by the central officials, in their non-judicial powers and (ii) those having full local autonomy both in administrative as well as judicial affairs. Under the first category we may place the panchayats of Makhoprm town, Khrapung and Kisipidi villages and Anlabakasapitanarasimhobhaya (आन्लवकसपितानरसिहोभय) group of villages.⁷ In these panchayat areas the Kuther (कूथेर) authorities were permitted entry for the collection of three taxes only, but were prohibited from interfering with the administration of justice. Under the same category we may place the towns and villages mentioned in the *inscriptions of Lagantole, Balambu and Lumjhya*,⁸ in which three or four departments were permitted to enter the areas for their administrative duties, but restricted from interfering with local justice.

In the second category we may place the Khurpasi and Adhahsala panchayats recorded in the edicts of Khopasi⁹ and Deopatana Ganesh temple.¹⁰ The charter of Khopasi is an example of the grant of a full autonomy to the panchayat. "The village is allowed the privilege of non-entry of all government officials into it and is

5. Gnoli, R.-op. cit., Nos. XXXIV.

6. "एतत्सीमा परिक्षिप्ते स्मिन् कोद्वेन कश्चिद् अस्मत्प्रसादोपजीविभिः अन्येर त्वा सूक्ष्मापि पीडाकार्यायस त्व एताम आज्ञाम विलंघान्यथा कुर्वति कारयेद वा तम अहन न भर्षयिष्यामि"

Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. XXXIV (lls. 23-26).

7. *Ibid.*, Nos. XXIV, XXV, XXVI and XXVII.

8. *Ibid.*, Nos. XIX, XXIII and LXVII.

9. *Ibid.*, No. XXXI.

10. *Ibid.*, No. XLI.

vested with powers to decide all the issues of the village itself, like local masters."¹¹ The passage has been interpreted by Levy as, "in all affairs that will come to be debated, it is the local proprietor who will have to submit to you for his examination."¹² According to Basak the passage means, "granted to these villages, the privilege that in all affairs they shall not have to go to the Adhikaranas or departments (of justice). Their affairs shall be submitted to the local proprietors (Svatalasvamin) for settlements."¹³ Both Levy and Basak seem to have mistaken the expression of Svatalasvaminaiva (स्वतलस्वामिनेव) for Svatalasvamin (स्वतलस्वामिन्) which clearly means "like masters at local level." Shri Gyanmani¹⁴ of Nepal discusses the interpretation of this expression at length and correctly interprets it as "we have restricted the entry of all the departments. Now you can decide all your matters (or cases), worth considering, yourself like masters." Therefore the charter of Khopasi indicates complete decentralization of powers at village level. A similar example of decentralization is revealed by Deopatana, Ganesh temple¹⁵ inscription, in which it is recorded that the Antarasana shall take up those issues which the panchayat is not in position to deal with. The religious Ganas and the Samghas also seem to be placed in this very category of local autonomy, because the Gairidhara¹⁶ in case of Ganas, and Pasupativajraghara and Yengubahal Tole¹⁷ inscriptions in case of the Buddhist Samghas, make them subject only to the jurisdiction of the Paramasana.

Functions :

The functions of panchayats during ancient days do not seem to be rigidly or strictly restricted within any limit of agreement,¹⁸ but the purpose for which they were constituted, embraced a wide area of useful activities, which could not be left to the efforts of individuals. According to Yajnavalkya,¹⁹ "they were allowed freedom of action against emergencies, provided such action was not contrary to the constitution." The ancient law books divide the local functions into two classes :

11. *Ibid.*, No. XXXI (Ils. 8-9).

"युष्माकम् सर्वाधिकरणप्रवेशेन प्रसादः कृतः समुपस्थित विचारणीय कार्येषु स्वतल स्वामिनेव यूयम् विचारणीयः सर्वकार्येषु"

12. Levy, S.-*Le Nepal*, Pt. III (English translation) p. 70.

13. Basak, R.G.-*The History of North Eastern India*, p. 252.

14. Gyanmani Nepal-Nepal Ko Prachin Itihas Ma Naya Prakas, p. 17.

15. Gnoli, R.-op. cit., No. XLI (Ils. 15-16)

यदाच पांचालिकानाम् यत्किञ्चन कार्यम् एतदगतम् उत्पत्स्यते यथाकालम् वा नियमितम् वस्तुपरिहाययिष्यन्ति तदा स्वयम् एव राजाभिः अन्तरासने न विचार करणीयो"

16. *Ibid.*, No. LXX.

17. *Ibid.*, Nos. LXXIII and LXXIV.

18. Majumdar, R. C.-*Ancient India*.

19. *Yajnavalkya Smriti*-(XV-186) p. 944.

"निजधर्मापिरोधेन वस्तुसमायिको भवेत् । सोपि यत्नेन संरक्ष्यो धर्मो राज कृतस्य वः ॥"

Pausthika and Santika. According to *Vāsistha Dharmasutra* the Pausthika (पौष्टिक) function includes, "works which contribute to the material strength of the citizens,"²⁰ while Santika (शान्तिक) function has been defined by Brihaspati "as the work which ensures the peace of the city."²¹ The above author records a large number of functions of local bodies, which sufficiently confirm with the epigraphic informations of Licchavi period in Nepal. The functions enlisted by Brihaspati include "preservation and maintenance of public halls, temples, tanks, rest houses, wells for supply of drinking water to travellers, construction of water-courses and places of worship, protection against incursion of wicked people and relief of the distressed."²² Strabo²³ while discussing the Pataliputra Paura mentions a number of functions undertaken by it, which include : (i) the industrial matters, (ii) administration of the property of deceased foreigners, (iii) registration of births and deaths, (iv) trade, commerce and manufactures of the city, (v) collection of municipal duty on the sale of articles, (vi) upkeep and repair of public buildings and (vii) regulation of prices, cases of markets, harbours, temples etc. Some South Indian inscriptions²⁴ record the division of local functions under ten heads, each of which was put under a separate committee. They included : (i) general supervision, (ii) management of charities, (iii) management and repair of tanks, (iv) management of gardens, (v) supervision of justice, (vi) supervision of wards, (vii) supervision of gold, (viii) supervision of fields, (ix) supervision of temples and (x) supervision of ascetics.

The functions of panchayats mentioned in the Licchavi inscription of Nepal may be classified under the following heads.

- (1) General administration, police and defence.
- (2) Administration of local justice.
- (3) The public works.
- (4) The management and repair of temples.
- (5) Public health and sanitation.

(1) General administration, police and defence :

Existence of separate committees for general administration is revealed by the inscriptions of *Paśupati Vijrāghara* and *Cyasaḷ Tole*²⁵ which record the name of Loprim Gramendra Gausthik or administrative committee of the village of Loprim. A similar reference of Indra Gosthi has been made in *Lele inscription*²⁶

20. Jayswal, K. P.- *Hindu Polity*, p. 239.

21. *Ibid.*, p. 239.

22. Mookerjee, R.K.-*Local Government in Ancient India*, p. 144.

23. Jayswal, K. P.-*op. cit.*, p. 239.

24. Majumdar, R. C.-*Ancient India*, p. 429.

25. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. LXXIII and LXXIX.

26. *Abhilekh Samgrah*, Pt. 1, p. 36.

which seems to be connected with the administration of Lembti town. The existence of such administrative committees in the name of "Samvatsar Variyam"²⁷ has been recorded in some South Indian inscriptions which support the possibility of similar committees existing under the panchayats of Nepal. In spite of reference of separate administrative committees in some of the inscriptions, the possibility of the function of general administration being handled by the panchayat executive or Pradhanas also cannot be ruled out. Since the status of panchayats has been defined as "subject to full jurisdiction over men and materials within its boundary,"²⁸ the function of general administration being an important item of their duty cannot be denied to them.

The restriction on the entry of regular soldiers within the boundary of a village and town, mentioned in the *inscriptions of Adinarayana, Yengahiti, Pasupati Vajraghara and Yengubahal Tole*,²⁹ leaves no doubt about the fact that a panchayat was not supposed to bank upon any outside help from regular and irregular soldiers for its internal peace and defence. This is further confirmed by *Minanath inscription*³⁰ which puts the responsibility of arresting an obstructionist and handing him over to Rajkula, with the village of Yupa. In addition to this, the inscriptions of Nepal do not mention the name of any officer or department of the central government at village level, who is entrusted with the function of police. Therefore it seems logical to think that the function of police was the responsibility of grama panchayat. The function of defence being under panchayats has been supported by *Kevalpur*³¹ inscription in which certain special facilities have been granted to the village of Nupunna for helping the state, which clearly means help in defence.

The reference to defence and police functions being managed by the local bodies has been made by Kautilya³² also. According to him the maintenance of peace and order in a town was the responsibility of a Nagaraka. The movement of people either from one place to another, within town or to its near vicinity was restricted at certain hours of night. Exceptions were made in favour of persons proceeding to attend child-birth, carrying a corpse, going to assemble in answer to a trumpet call by Nagaraka, proceeding to witness a show or running to extinguish fire. Physicians and pass-holders were exempted. People who raised suspicions by their demeanour or who carried arms were arrested. It was open to the wayfarer to catch

27. Majumdar, R. C.-*Ancient India*, p. 423.

28. Gnoli, R -*Nepalese Inscriptions in Gupta Characters*, Nos. LXXIII and LXXIV.

‘शरीरकोट्टमय्यादोपपन्नः’

29. *Ibid.*, Nos. XII, LXVII, LXXIII, and LXXIV.

30. *Ibid.*, No. LXXX (lls. 9-10).

31. *Ibid.*, No. LIV (lls. 14).

‘स्माभिः भवत सहाय्यादि कर्मपरितुष्टैः’

32. *Indian Historical Quarterly*, Vol. V, 1929, p. 614.

hold of persons who appeared to be of suspicious character. The provision for searches of notorious or suspicious places also have been mentioned by Kautilya.³³ Therefore both the references to Nepalese inscriptions as well as Kautilya lead us to believe that the function of police and defence within its area was the sole responsibility of the panchayat during Licchavi period.

(2) The Administration of Local Justice :

A great deal of importance was attached to the local courts, because they confirmed with the concept of on-the-spot justice laid down by the great law-givers. According to *Sukrāniti*, the best judges of the merit of case are those who either live closer to the accused persons or to the places of occurrence of dispute. "Foresters are to be tried with the help of foresters, merchants by merchants, soldiers by soldiers and in village by persons who live with both parties."³⁴ Proceeding on the same idea Brihaspati prescribes : "for a person roaming in the forest, a court should be held in the forest, for warriors in the camp, and for the merchants in the caravan."³⁵ Yajnavalkya while dealing with the cases of boundary disputes further emphasizes the importance of local justice. He suggests that "persons in surrounding villages, aged men and other (competent persons), cowherds, persons who frequent the forest should determine the boundary" or "persons from neighbouring village in number four, eight or ten should settle the boundary lines."³⁶ Kautilya³⁷ gives a very clear picture of the local justice by stating: "all disputes between any two villages should be settled by neighbours or elders of five or ten villages and disputes arising in the same village by the elders of the neighbourhood or of the village (Grama-Vridhdhas)."

Existence of regular panchayat courts has been proved by a number of Licchavi inscriptions. The inscriptions of *Balambu* and one each from *Golmadhi*, *Tulacchen Tole*, *Mangalbazar*, *Dharampur* and *Budhanilkantha*,³⁸ restrict the Royal officials from interfering with the local justice of five sins. This restriction of interferences with justice by one, two or sometimes, even four departments, mentioned in the Royal charters, has led Shri Gyanmani³⁹ of Nepal, to guess over the possibility of the local courts being controlled by a fifth department of the central government. However, there seems to be very little possibility for it. There is no mention of local justice being administered by a fifth department in the inscriptions. On the other hand the restrictions of one, two or sometimes, four departments indicate that the charters have been issued in consideration of the problems of individual villages, and as such

33. *Ibid.*, p. 614.

34. Mookerjee, R. K.-*Local Government in Ancient India*, p. 136.

35. Majumdar, R. C.-*Ancient India*, p. 152.

36. Mookerjee, R. K.-*Local Government in Ancient India*, p. 137.

37. *Ibid.*, p. 138.

38. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. XV, XIX, XXIV, XXV, XXIII, XXVI and XXVII.

39. Gyanmani, N.-*Nepal Ko Prachin Itihas Ma Naya Prakas*, p. 14.

where the Kuther⁴⁰ (कूथेर) department was reported to be interfering with justice it was banned from doing so. Similarly where Lingval (लिंगवल) or Mapchoka (माप्चोक) or Sulli⁴¹ (शुल्लि) were reported to be interfering with local justice they were restricted either alone or along with others from such interference. This fact rather proves that well-established independent local courts were already functioning in the villages and towns and the kings took special care to see that justice was in no way influenced or corrupted by the government officials. One of the *Balambu*⁴² inscriptions which uses the expression : "all the four departments are restricted from interfering with justice of five sins," indicates the possibility of there being only four regular departments in a village. Bhata (भट), Pitalja (पीटालजा) and Paschimadhikarana (पश्चिमाधिकरण) mentioned by Shri Gyanmani⁴³ seem to be either of higher ranks or not connected with the village administration. Therefore the possibility of any government department controlling the local judicial functions seems to be meagre. The *Narayana Chour*⁴⁵ inscription which prescribes that all the payments in connection with the judgment of a case are to be made by panchayat removes all doubts in this case.

The Jurisdiction of Panchayat Courts :

From the point of view of jurisdiction Kautilya mentions two classes of law courts, Dharmasthiya and Kantaka-Sodhana. Dharmasthiya courts generally decided such cases as arose from the personal grievances of one or a few and the punishment was only in fines. Kantaka-Sodhana courts on the other hand, related to the matters affecting the government, the king, the public at large or offences like murder etc. and the punishment for them ranged from fine to the capital punishment.⁴⁵ The jurisdiction over the first type of cases seems to have been fully vested in the panchayat courts. But the jurisdiction of panchayats in the cases under Kantaka-Sodhana has not been fully accepted by the authorities. Some passages of Kautilya⁴⁶ indicate the possibility of the powers of local courts being limited to the deportation of criminals like thieves and adulterers. According to Viramitrodaya⁴⁷ the judicial powers of local bodies "must have been limited to the matters of municipal administration. Criminal authority that is the cases of Sahasa (violence) class are expressly exempted from the jurisdiction of the Paura constitution."

There seems to be no doubt about the panchayat courts possessing complete civil jurisdiction, because in addition to the above mentioned authorities, some of the

40. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. XXIV, XXV, XXVI and XXVII.

41. *Ibid.*, Nos. XIII, XIX, and XXIII.

42. *Ibid.*, No. XIX.

43. Gyanmani. N.-*Nepal Ko Prachin Itihas Ma Naya Prakas*, pp. 14-15.

44. Gnoli, R.-*op. cit.*, Nos. LXXXIII.

45. Law, N. N.-*Studies in Ancient Hindu Polity*, p. 118.

46. Mookerjee, R. K.-*Local Government in Ancient India*, p. 140.

47. Jayswal, K.P.-*Hindu Polity*, p. 240.

inscriptions of Licchavi period also lead us to the same conclusions. The *inscription of Khopasi*⁴⁸ grants full autonomy to the village, while *Deopatana, Ganesh temple and Narayana temple*⁴⁹ inscriptions define the jurisdiction of Antarasana (अंतरासन) only in those issues which cannot be taken up by the panchayats. All these three inscriptions clearly indicate that administrative as well as judicial autonomy of the villages was complete. A very positive proof of possession of civil jurisdiction is the provision of a fee to be realised by the panchayat courts in case of Sampratipatti (संप्रतिपत्ति) or agreement in a case which is generally possible in civil cases.

The Panchayat courts of ancient Nepal seem to have been vested with much more powers in Kantaka-Sodhana or criminal cases of higher order, than their counterparts in contemporary India. These courts decided ordinary criminal cases as well as cases of Panchaparadha or five great sins. Its jurisdiction in non-Panchaparadha cases has been recorded in three inscriptions of that period. The charters of Pasupati-vajraghara and Yengubahal Tole,⁵⁰ prescribe a fine of 100 Panas for the death of a pregnant lady in course of abortion and 3 Pana Puranas for ill-treatment with a wounded animal of bovine species.⁵¹ Similarly *Naksal Narayan Chore*⁵² inscription mentions the case of suicide and prescribes a fee for post mortem. Thus there seems to be little doubt about the panchayat courts having jurisdiction over ordinary type of criminal cases.

The importance of Panchayat courts of Nepal seems to have been immense due to their powers to decide the cases of Panchaparadha. Probably because of the importance of their jurisdiction that the *Balambu inscription*⁵³ has called the panchayat court as "Panchaparadhadvara (पंचापराधद्वार). Seven charters⁵⁴ which are addressed to the panchayats or villages or towns restrict the interference of officials with the justice of the Panchaparadha, which is enough to prove the jurisdiction of panchayat courts in these cases. Further the *inscriptions of Pasupati-vajraghara and Yengubahal Tole*⁵⁵ clearly direct the villages concerned to hand over the persons guilty of Panchaparadha to the Rajkula and their confiscated property to the Arya Samgha. It seems that the panchayat courts were entitled to decide the cases of Panchaparadha and then hand over the person to the Rajkula for punishment.

48. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. XXXI.

49. *Ibid.*, Nos. XLI, LXVIII.

50. *Ibid.*, No. LXXIV.

51. *Ibid.*, Nos. LXXIII and LXXIV (Ils. 9-10 and 7-8).

‘गुर्विणीमरणे गर्भोधारणाय पराशतमात्र देयेन सक्षतगोष्ठपञ्चगापचारे सपणपुराण त्रय मात्र देयेन’

52. *Ibid.*, No. LXXXIII.

53. *Ibid.*, No. XIX.

54. *Ibid.*, Nos. XV, XIX, XXIII, XXIV, XXV, XXVI and XXVII.

55. *Ibid.*, Nos., LXXIII and LXXIV.

The offences included in the list of Panchaparadha have been very clearly explained in the inscriptions. *Pasupativajragharā and Yengubahal Tole*⁵⁶ inscriptions mention theft, adultery, murder and complicity (according to Levy)⁵⁷ while on the other hand *Yenga Hiti*⁵⁸ inscription enlist theft, adultery, murder and crimes against state. Thus these inscriptions together clearly indicate that the five crimes included theft, murder, adultery, crimes against state and complicity in them.

The procedure of local courts :

*Narāyana Chour*⁵⁹ inscription, although substantially mutilated, releases a number of important information regarding the procedure of these law courts laid down by the central government. There is provision made for a court-fee for the decision of a case (निर्णोक्षिव्यवहारभागे). A fee is also charged for the agreement (सम्प्रतिपत्तौ) in a case. The provision for the payment of the witnesses who were present on the spot (वेत्रोपस्थित साक्षिणाम्) and other similar persons named as Mumdryam ghadga (मूद्रयांघद्ग) and Ayaksikanka (अयक्षिकांकां), which are mentioned in the same connection. The inscription very clearly mentions that the panchayat is responsible for the payments in connection with the process of law and in no case the money fixed for one item can be transferred to another place.⁶⁰ In case of mis-appropriation of this money there is provision for a complaint to be made to the king through the officer called Dauvarika. In the same way the same inscription reveals the procedure in case of suicide. It is to be reported to the Dauvarika for post-mortem examination. The person coming for the purpose of post-mortem is to be paid by the party.⁶¹ This proves that a very developed type of judicial courts existed under the panchayats during that period. A Nepalese manuscript named as *Vyavahāralokā* by Gopal Siddhant Vagish Bhattacharya gives detailed dealing in the statement of a witness, the classification of cases of disputes and the determination of cases and application of the law. It also deals with the consideration of cases of sale and purchase, cases of boundary, the decision and administration of justice, accusation in cases of thieving, statement of Dharma of man and his wife etc.⁶²

(3) Public Works :

The area of public work activities of the local bodies in ancient days was very extensive, which included, among other things, the opening of irrigation works,

56. *Ibid.* Nos. LXXIII and LXXIV.

“चौरपरदार हत्या सम्बन्धादि”

57. Levy, S.-*Le Nepal*, Pt. III (English translation) p. 125.

58. Gnoli, R.-op. cit., No. LXI (Ils. 14-15).

59. *Ibid.*, No. LXXXIII.

60. *Ibid.* No., LXXXIII (Ils. 30-31).

‘व्यवहार परिनिष्ठित जातम् द्रव्यस्य जपय पांचालिकेन दातव्यम् । यस्तु द्रव्यम् न प्रयक्षेत स्वस्थानवस्तव्यस्यान्यस्थानीयस्य च धारण कस्यात्रैव रांधोपराधोभवेत’

61. *Ibid.*, No. LXXXIII (11.34).

62. Keshar Bahadur, K. C.-*Assessment of Judicial Custom in Nepal*, Pt. I, p. 232.

the establishment of mines and factories, the maintenance of preserves and grazing grounds, of highways of commerce, water-ways, land routes and other facilities of communication. The establishment of market and stores, the construction of embankments, dams and bridges, the planting of fruit and flower trees, of medicinal plants and herbs and the protection of the disabled, the helpless and the infirm were their routine functions.⁶³

The elaborate descriptions of the arrangements of cities have been given in many ancient books, which reveal a large number of public work functions undertaken by them. "Cities were provided with temples, roads, foot-paths, reservoirs, wells of drinking water, travellers' sheds, hospitals, brilliant shops, pleasure gardens, big tanks and various places of amusements."⁶⁴

According to Dr. Basak⁶⁵ "construction of public utility, such as leading water-courses and conduits formed a special feature in Nepal, and both Amsuvarman and Jisnugupta, are credited in their own charters, with having undertaken such works for the benefit of the people whose representative committees were sometimes directed to spend money out of the collective taxes of their villages towards the upkeep of these benefactions." The public work functions undertaken by the panchayats during the Licchavi periods may be grouped under three sub-headings : (a) maintenance, repair and construction of canals and water-conduits etc., (b) the maintenance and repair of roads and foot-paths and (c) maintenance and repair of gardens and rest houses.

Under the first category, the inscriptions mention three names (i) Tilmaka (तिलमक), (ii) Maha-Pranali (महा-प्रणाली) and (iii) Pranali (प्रणाली). Tilmaka has been interpreted as a water-course by Dr. Basak. However, the *Minanath*⁶⁶ inscription which prescribes rules regarding administration of a Tilmaka very clearly directs that it should be utilised by certain villages after "distributing it in seven streams." Therefore it seems to be more appropriate to call it a canal rather than only a water-course. *Taujha*⁶⁷ inscription which has been addressed to a group of villages, records that the Tilmaka which was constructed for the benefit of these villages by Shri Amsuvarman, went out of order and was reconstructed by Samanta Chandra Varman. It also records donation of a garden for the repair of the Tilmaka. *Mind-narayana*⁶⁸ inscription, in the same way records construction of a Tilmaka for the benefit of the people and provision of one tenth of collective tax or Pindaka was made

63. Law, N. N.-*Studies in Ancient Hindu Polity* etc., p. 2.

64. Majumdar, R. C.-*Ancient India*, p. 151.

65. Basak, R. G.-*History of North Eastern India*, p. 298.

66. Gnoli, R.-op. cit., No. LXXX (11.11).

'तिलमकश्च सप्तधा विभाज्य परिभोक्तव्यो ।'

67. *Ibid*, No. L.

68. *Ibid*, No. LII,

for its repair work. *Sonaguthi*⁶⁹ inscription which is extremely mutilated clearly records the expressions 'Tilmaka', 'Bringesvara panchayat' and 'to be used'. Therefore it is evident from all these inscriptions that a Tilmaka which was an irrigation canal, was constructed by the state, while its repair and maintenance were put under the panchayats, for which purpose due provision of state aid was made.

Mahapranali : *Pasupati Vajraghara and Yengu Bahal Tole inscriptions* prescribe rules for the use of forced labour for the renovation⁷⁰ of Mahapranali which was constructed by the state. The use of expression Svakarita reveals that it was constructed by the king who issued the charter, while the orders for the use of labour to the villages addressed, indicate that the repair or renovation was put under the charge of these two villages through their panchayats. Levy interprets Mahapranali as great canal, which indicates the possibility of its being treated on the same level as a Tilmaka, the maintenance and repair of which were the function of panchayats.

Pranali : Dr. Basak interprets Pranali as "water-conduit."⁷¹ This term has been very clearly explained in *Balambu*⁷² inscription. The charter recognises the departments of Ginun and Digvar of the village of Jolprin for constructing a Pranali having 'tasteful, pure and cool water' which proves that Pranali or water-conduit was meant for the supply of drinking water. As a reward for this work the village was granted exemption from certain taxes in addition to the recognition of Ginun and Digvar offices of the village. Another inscription⁷³ of the same area (Balambu) makes some concessions to the Magval panchayat as a reward for the construction of a Pranali. The inscription of *Bhansahitti*⁷⁴ restricts entry of carts and bullocks in the village of Jonjondin for the work of Nilisala Pranali. *Wotutole inscription* although extremely mutilated clearly reads: "as a reward for the work of a Pranali" exemption from certain taxes was made to the village concerned.⁷⁵ Thus these inscriptions reveal that the construction as well as maintenance of a Pranali was the function of the panchayats for which they were encouraged by the state through reward of various kinds.

In ancient India the indigenous irrigation system comprised generally of tanks and channels. They were built either by individual benefactors or by communal enterprises. But in any case the duty of maintaining them and keeping them in repair came to be recognised by custom as falling upon the village community.⁷⁶ Similarly

69. *Ibid.*, No. LXXVIII.

"तिलमकस, भृंगेश्वर पांचा...., उपभोत्वाद"

70. Gnoli, R.-op. cit., Nos. LXXIII and LXXIV.

71. Basak, R. G.-*History of North Eastern India*, p. 298.

72. Gnoli, R.-op. cit., No. LV, (Ils. 8-9).

73. *Ibid.*, No. LI.

74. *Ibid.*, No. XLII, (Ils. 6-8).

75. *Ibid.*, No. XLIII.

"प्रणालीकर्म परितोषितः, वंशमल्लपोत सूकर कर"

76. Mookerjee, R. K.-*Local Government in Ancient India*, p. 147.

the use of compulsory labour for the repair of irrigation work as mentioned in Licchavi inscriptions of *Pasupati Vajraghara* and *Yengubahal Tole*⁷⁷ have their instances in the South Indian inscriptions also. A Chola inscription mentions that the residents of a district imposed a certain contribution upon every village in order to construct an embankment on a river.⁷⁸ According to Dr. Mookerjee, when other sources were not available the villages "themselves undertook at joint expenses of the villages who were all benefitted by it. Thus probably arose the custom of Khudimaramat in the South India by which compulsory labour for repair of irrigation works is sanctioned."⁷⁹

Thus it is well proved both from the Nepalese inscriptions as well as Indian epigraphic records that the canals were maintained and water-courses constructed and maintained by the panchayats.

The maintenance and repair of roads and foot-paths :

"The village public work also included the public roads, the maintenance of which was one of the duties of the assembly."⁸⁰ The function of maintenance and repair of roads has been quite an important function of panchayats in Nepal. The Licchavi inscriptions reveal the existence of varieties of roads in villages and towns. They are called by Mahapatha, Vrihatpatha and Margas. *Adinarayana*⁸¹ inscription names two roads, one Mahapatha and the other Hastimarga. *Pasupati Vajraghara*⁸² inscription records one Mahapatha, one Vrihatpatha and a number of Margas viz. Mupringami Marga, Loprin Gami Marga, Sarala Banagami Marga. Thus we find two general terms used for the roads, Patha and Marga. Since the expressions used have been Mahapatha and Vrihat Patha, it may be inferred that they might not have belonged to the village panchayats, while the Margas seem to be connected with the villages. The existence of a separate road for elephants reveals the care taken for the safety of general public. However it is difficult to conclude that the broader roads exclusively were state roads while the narrower ones belonged to the villages. The ancient records reveal that the town roads were narrower than the village roads. "The principal roads in the towns were thirty feet wide and the side alleys and lanes eight to twelve feet. The village roads on the other hand were sixty feet wide. The reason for the village road being wider than town roads perhaps lay in the fact that on account of town being inhabited by well-to-do persons there was greater danger of theft and robbery in towns."⁸³ However this description of roads reveals the existence of two types of roads as we find in the Nepalese inscriptions, the Patha being

77. Gnoli, R.-op. cit., Nos. LXXIII and LXXIV.

78. Majumdar, R. C.-*Ancient India*, p. 425.

79. Mookerjee, R. K.-*Local Government in Ancient India*, p. 156.

80. *Ibid.*, p. 156.

81. Gnoli, R.-op. cit., No. XII.

82. *Ibid.*, No. LXXIII.

83. *Journal of Bihar & Orissa Research Society*, Vol. II (1916), p. 136.

the main road while the Margas the streets. That the maintenance of roads and streets was the concern of the panchayats is confirmed by a story from Jatakas.⁸⁴ There were only thirty families in a village. They were doing good work in the Bodhisatta's company. They "used to get up early and rally forth, with razors and axes and clubs in their hands, with their clubs they used to roll out of the way all stones that lay on the four highways and other roads of the village, the trees that would strike against the axles of the chariots they cut down, rough places they made smooth, cause-ways they built etc."⁸⁵ It was economically possible for the village panchayats to look after the roads and streets falling within their respective areas, because mostly it required the manual labour for which they could easily acquire the forced labour from the village.

The third group of functions undertaken by the panchayats under public works comprised of the management and maintenance of public gardens, parks and rest-houses. *Cyasaal Tole*⁸⁶ inscription records existence of a park (Puspa Vatika) and a garden belonging to the Loprim panchayat (Loprim Panchali Vatika). Similarly *Pasupati Vajraghara*⁸⁷ inscription mentions the existence of a big garden (Vrihadaram) in the vicinity of a village. *Lele* inscription reveals state donations for the maintenance of three rest houses belonging to the Lembti⁸⁸ town named as Paschimasala, Purvasala and Uttarasala.

(4) Management and Repair of Temples :

The management and repair of the temples was mostly put under the panchayats, which was either administered by the whole body or through the committees appointed for each item of work separately. The *Pasupati Ganesh temple*⁸⁹ inscription puts the management of the temples of Cchura Bhogesvara Laditmahesvara and Daksinesvara under the Adhahsala panchayat. *Patana Sundhara inscription*⁹⁰ records creation of a permanent endowment for the repair and maintenance of Matin temple, the administration of which was put under the Matin panchayat. *Minanarayana*⁹¹ inscription puts one tenth of the total Pindak or collective tax under Gita panchayat for worship of a temple and for charitable feasts in it. Since there is no mention of separate committees in the above inscriptions it seems the panchayats as a whole used to manage the affairs of the respective temples. On the other hand *Lele*⁹² inscription mentions a separate committee for each work of the temples viz.

84. Mookerjee, R. K.-*Local Government in Ancient India*, p. 146.

85. Mookerjee, R. K.-*Local Government in Ancient India*, p. 146.

86. Gnoli, R.-op. cit., No. LXXIX.

87. *Ibid.*, No. LXXIII.

88. *Abhilekh Samgrah*, Part I, pp. 30-31.

89. Gnoli, R.-op. cit., No. XLI.

90. *Ibid.*, No. XXXVIII.

91. *Ibid.*, No. LII.

92. *Abhilekh Samgrah*. Pt. I, pp. 30-31,

committee for lighting (Pradip-Gosthi), committee for burning incense (Dhoop-Gosthi), committee for worship (Archa-Gosthi), committee for flag (Dhvaj-Gosthi) etc.

In addition to these religious functions, the panchayats used to undertake other religious works either on their own initiative or to help the state in construction of temples etc. *Yengahiti*⁹³ inscription records grant of certain special privileges to the town of Daksinakoli for carrying a big rock for carving image of God Vishnu in sleeping posture. *Sonaguthi*⁹⁴ inscription mentions that the panchayat of Nrimri was entrusted with the work of carving a beautiful idol of some God.

The function of repair and maintenance of temples and sacred places by the local bodies has been mentioned in the contemporary Indian states also. According to Viramitrodaya⁹⁵ the Paura like any other township looked after the community buildings like Devagriha, Arama and Sabha. A *Pandya*⁹⁶ inscription records that the residents of eighteen sub-divisions assembled together and set apart the income derived by them from certain articles and merchandise to meet the cost of the repair of a temple. A *Chola*⁹⁷ inscription informs us that the residents of a district imposed tax upon themselves for the conduct of worship in a temple.

(5) Public Health and Sanitation :

Due care was taken by the panchayats for the health of the people for which not only the hospitals were run to treat the diseased persons, but due precaution for the development of physical health also was taken. Lele inscription mentions a substantial aid to the hospital⁹⁸ (Arogyasala) of Lembti town by the government which shows the priority given to this function even over the management and maintenance of the temples. In the same way the same inscription records another substantial grant to the committee of wrestling (Mallayuddha Gosthika) which proves the importance of this function also.

The function of sanitation also was managed by the panchayats and separate committees for this purpose were formed. *Valatole*⁹⁹ inscription records grant of land to a committee for watering roads, which reveals that other similar committees might have existed under the panchayats for managing other works connected with sanitation of the town.

According to Kautilya the enforcement of the regulation concerning conservancy was left to the local bodies (Nagaraka). "The throwing of dirt and refuses into

93. Gnoli, R.-op. cit., No. LXI.

94. *Ibid.*, No. LXII.

95. Jayswal, K. P.-*Hindu Polity*, p. 240.

96. Majumdar, R. C.-*Ancient India*, p. 425.

97. *Ibid.*, p. 425.

98. *Abhilekh Samgrah*, Pt. I, p. 30.

99. *Ibid.*, Pt. II, p. 13.

‘मार्गेन्मार्जनं गोष्ठिकां सुनिहितं क्षेत्रम् तूरोपणीम्’

the street, the accumulation of mire in it owing to the negligence of the owners of the premises, the commission of nuisance in the sacred places, throwing of carcasses of animals and corpses within the town, the transport of a dead body through roads and gates other than prescribed for the purpose and their burial or cremation outside the burial ground or crematorium were visited with penalty."¹⁰⁰

The *Valmiki Ramayana*¹⁰¹ depicts the towns during the ancient period in which due care for sanitation and public health was taken. "The towns" at that time "were clean, houses were placed apart from one another, the roads were clean and wide and well-watered and occasionally perfumed and market squares were carefully distributed."

100. *Indian Historical Quarterly*, Vol. V (1929), p. 623.

101. *Journal of Bihar & Orissa Research Society*, Vol. II (1916), p. 137

CHAPTER VI

THE PANCHAYAT FINANCE

The Classification of Taxes :

The earliest mention of taxes is found in the hymns of *Rigveda*. The term used in it has been Bali, meaning voluntary offering to deities. Later on, this term came to be applied to the taxes offered to the king who was designated as Balihritha.¹ The Epics and *Dharma-sutras* and *Arthashastra*, later on, regulated the entire system of taxation and enunciated the principle that taxes should be levied in accordance with the law prescribed in the *Smritis*.² The *Mahabharata* prescribes : "that avaricious king who foolishly oppresses his subjects by levying taxes not sanctioned by scriptures, is said to wrong his own self."³

According to Sukra,⁴ the normal taxes are derived from the land (Parthiva) or from other sources (Parthivetara). The former source represents the state's sovereignty over the lands of Paura and Grama along with both natural as well as artificial water (Sadaiva Krittrima Jala). The duties, royalties for mines and other taxes constitute the non-Parthiva income.⁵ The details about taxes given by Kautilya⁶ include : revenue from forts, country parts, mines, buildings, gardens, forests, cattle, roads, imports, port-towns and special taxes. The list given by Kamandaka⁷ on the other hand, includes agriculture communication, entrenchment of strong holds for soldiers (for protecting merchants), construction of dams and bridges across the rivers, working of mines and quarries, felling and selling of timber and populating the uninhabited tracts.

The panchayats possessed absolute rights over the village lands and were left undisturbed in their internal management. But they were responsible for the payment of Royal dues from the village and for the proper utilization of the part of

1. *Journal of U. P. Historical Society*, Vol. V, p. 49.

2. *Ibid*, p. 49.

3. *The Mahabharat (Shanti Parvan)* No. LXXI-15, p. 107, edited by Dutta Manmath Nath.

4. *Journal of U.P. Historical Society*, Vol. II, p. 49.

5. *Ibid*, Vol. V, p. 72.

6. *Indian Historical Quarterly II* (1926), p. 139.

7. *Indian Historical Quarterly II* (1926), p. 140.

revenue assigned to them. There have been instances on records when the members of village assembly were arrested and imprisoned for unpaid balance of the revenue. In one case the corporation was actually fined by the king on complaints brought by the temple authorities that it was mis-appropriating part of revenue assigned to them.⁸ The Royal officers supervised the accounts from time to time and the panchayats were liable to punishment for defaults.

The inscriptions of *Adinārdyana* and *Yengahiti*⁹ mention Bhaga, Bhoga, Kara and Pindaka and taxes to be paid by the panchayats. On the other hand the inscriptions of *Lagantole*, *Pasupati Vajraghara* and *Yengu-Bahal Tole*¹⁰ record Bhaga, Bhoga, Kara and Hiranya as Royal taxes. In addition to these classified taxes a number¹¹ of inscriptions of Licchavi period deal with specific taxes both in cash as well as in kind. Six inscriptions deal with Visti¹² or labour tax. All these taxes referred to above were, no doubt, Royal taxes levied on the village either directly or through the panchayats, but part of these taxes was from time to time, assigned to the panchayats for performance of the duties assigned to them. Thus they were equally a source of income to the central government as well as to the local institutions. This has been proved by a few inscriptions of Licchavi period. The *Minā-Narayana*¹³ inscription allots one tenth of Pind-tax (Pindaka) to Gita panchayat for repair and maintenance of a canal (Tilmaka). Similarly the *inscription of Taujha*¹⁴ grants a garden along with Pind-tax to a group of three villages for repair and maintenance of a canal (Tilmaka).

Therefore the inscriptions reveal that the taxes levied were named Bhaga, Bhogakara, Pindaka, Hiranya and Visti.

Bhaga Bhogakara has been traced in the land grants of India from 5th¹⁵ century onward. It is not known to the *Smritis* or *Artha-sāstra*. It has been usually taken to consist of three distinct items, Bhaga, Bhoga and Kara. A clue to its correct interpretation may however be traced in *Artha-sāstra*¹⁶ where "the persons who occupy fields embanked reservoirs (Setu) from private owners do it on condition of Bhaga Bhoga and they are distinguished from those who hold the same on condition of Avakraya, Prakraya, Adhi (mortgage)" etc. Here Bhaga Bhoga has been explained by G. Shastri¹⁷ to refer to conditions of having a specific share of the resulting

8. Majumdar, R. C.-*Ancient India*, p. 422.

9. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. XII and LXVI.

10. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. LXXIII and LXXIV.

11. *Ibid*, Nos. XXXII, XXXIII, XXXIX, XLII, LV.

12. *Ibid*, Nos. LXII, LXXII, LXXIII, LXXIV, LXXVII and LXXXII.

13. *Ibid*, No. LII.

14. *Ibid*, No. L.

15. *Indian Historical Quarterly*, Vol. V (1929), p. 277.

16. *Ibid*, p. 277.

17. *Ibid*, p. 277.

product. Therefore Bhaga Bhogakara may be taken as a tax of the nature of specific portion of agricultural product payable to the king."¹⁸

The *Smritis* allow the state a sixth share in the produce of the plants and the trees as well as share in pasture forests and animals. Manu¹⁹ prescribes that the king "may also take the sixth part of tree, meat, honey, clarified butter, perfumes, medicinal herbs, substances used for flavouring food, flowers, roots and fruits and also leaves, vegetables, grasses, (objects) made of cane, skin, earthen and stone-wares." Visnu²⁰ suggests a similar list as Manu but adds bamboo slips and clothes to it. Hiranya, like Bhaga Bhoga Kara frequently occurs in the Indian Land grants of 5th²¹ century onwards, in which donations are made along with Hiranya and other dues of the kings. Hiranya as a revenue term occurs in Rajadharma and Niti sections of *Smritis* and *Puranas* also. Manu²² prescribes that "a fifth part of increment and gold may be taken by the king." According to Visnu²³ it should be "two in hundred of cattle, gold (Hiranya) and clothes." Similar mention of Hiranya as tax has been made in *Agnipurana*²⁴ (CC III.27) also. There is no direct reference to this term as branch of revenue in *Arthashastra*.²⁵ But in the story of the origin of kingship it mentions that people, having chosen Manu as their king, agree to pay one sixth of crops, one tenth of merchandise as well as Hiranya as their share. A similar story depicted in the *Mahabharata*,²⁶ mentions that the people promised to pay to Manu one fiftieth of domestic animals, one tenth of crops as well as Hiranya. The meaning of Hiranya, however, has not yet been determined. On the basis of *Smritis*, it has been suggested that either it is "a tax on the board" or "a tax on capital of annual income."²⁷ In the medieval India (before Todurmall reform)²⁸ while payment of land revenue was in kind, a certain special class of crops was assessed in cash. This indicates that Hiranya was "a cash tax levied upon certain crops as distinguished from ordinary crops."

Pindaka or Pindakara : There seems to be little doubt about Pindaka being a regular tax levied on the villages as apart from the inscriptions mentioning it

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18. *Ibid.* p. 237.
 19. Buhler, G.-*The Laws of Manu* (VII-131-32) p. 237. *The sacred books of the East*. Vol. XXV, edited by Max Muller.
 20. Jolly, J.-*The Institution of Visnu* (III-25), p. 16. *The sacred books of the East*, Vol. VII, edited by Max Muller.
 21. *Indian Historical Quarterly*, Vol. V (1929), pp. 274-75.
 22. Buhler, G.- *op. cit.*, pp. 236-37. *The sacred books of the East*, Vol. XXV, edited by Max Muller.
 23. Jolly, J.-*op. cit.* p. 216. *The sacred books of the East*, Vol. VII, edited by Max Muller.
 24. *Indian Historical Quarterly*, Vol. V. (1929) pp. 275-77.
 25. *Ibid.* p. 275.
 26. *Ibid.* pp. 276-77.
 27. Bandopadhyaya, N. C.-*Kautilya*, pp. 139-40.
 28. *Indian Historical Quarterly*, Vol. V (1929), pp. 276-77.

in the general list of taxes.²⁹ Some of the inscriptions³⁰ mention it in connection with the share of revenue allotted to the panchayats. Its popularity indicated in the inscriptions, in being allotted to the local bodies, proves that it was probably a collective tax on the villages to be realised through the panchayats. *Arthasastra*³¹ while distinguishing between various taxes mentions : "taxes are fixed (Pindaka), that are paid in form of one sixth of the produce (Sadbhaga), provision for the army (Senabhaga), taxes that are levied for religious purposes (Bali) etc." Pindaka has been defined by Dikshitiya³² as "a fixed tax paid by the villagers." Therefore we may take it as a levy on the village which was not based upon the share of the products. Visti or tax rendered in the shape of labour was a common method of payment mentioned in the law books and other political literatures of ancient period.³³ The king was entitled to have compulsory manual works from all artisans and labourers or those who lived by labour. Manu³⁴ and Visnu³⁵ prescribe one day compulsory labour in a month. According to them, "artisans, manual labourers and Sudras shall do work for the king for a day in each month." Sukra³⁶ on the other hand, allows one day per fortnight as labour tax.

Visti has been taken as an important tax in the inscriptions of ancient Nepal. The *Pasupati Vajraghara* and *Yengu Bahal Tole*³⁷ inscriptions use two expressions in this connection, (i) the declaration of law for Visti (विष्टयाज्ञानु विधायितत्वेन) & (ii) all taxes on body are exempted (शरीर सर्वकरणीय प्रतिमुक्तः). This proves that Visti which was a tax on human body, was subject of laws prescribed by the state, just like any other tax. Another important inscription in this connection is that of *Thimi*³⁸ which prescribes that in order to maintain relationship with labour the village shall pay 100 Pana to the merchants of Royal family annually. This reveals that in certain cases provision of cash payment was made in lieu of labour tax also. In addition to these three other inscriptions refer to Visti. *Lagan Tole*³⁹ inscription records a tax of 5 porters annually for the traders going to Bhatta. Similarly *Sonaguthi*⁴⁰ inscription mentions the term Kasasthi Visti and *Balambo*⁴¹ *Indramati*

29. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. LXVI, LXXIII and LXXIV.

30. *Ibid.*, Nos. LI, LII.

31. *Indian Historical Quarterly*, Vol. II, p. 139.

32. Dikshitiya, V. R.-*Mauryan Polity*, p. 142.

33. *Indian Historical Quarterly*, Vol. II, p. 141.

34. Buhler, G.-*The Laws of Manu* (VII-138), p. 237.

The sacred Laws of the East, Vol. XXV.

35. Jolly, J.-*The Institution of Visnu* (III-32), p. 17.

the sacred Laws of the East, Vol VII.

36. *Indian Historical Quarterly*, Vol. II, p. 141.

37. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. LXXII and LXXIV.

38. *Ibid.*, No. LXXXII.

39. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. LXXVII.

40. *Ibid.*, No. LXII.

41. *Ibid.*, No. LXXVI.

inscription Jhalalandu Visti, they were probably labour taxes for going to Kasasthi and Jhalandu as in case of Bhatta Visti.

Visti as a tax seems to be important both from the point of view of central government as well as of the community works undertaken by the panchayats which used to undertake lot of functions. *Mangal Bazar, Golmadhi, Tulacchen Tole, Dharampur* and *Budha Nilkantha inscriptions* very clearly refer that all these taxes were classified under three main heads. All the above-mentioned inscriptions authorise the Kuthar or the tax collecting office, to enter a village for the realisation of the usual three types of taxes⁴² only. These inscriptions however do not indicate the items of taxes grouped under these three types. On the other hand the list of taxes mentioned separately includes Bhaga Bhoga Kara, Pindaka, Hiranya and Visti which seems to express six groups of taxes rather than three. Therefore the only possibility seems to be that these taxes were grouped into (i) taxes in kind, (ii) taxes in cash and (iii) labour tax.

Under the first category of taxes we may include (a) the oil tax mentioned in *Sanga* and *Indramati inscriptions*,⁴³ (b) the taxes on fish, hens and boars mentioned in the *inscriptions of Bungamati, Chapagaon and Watu Tole*⁴⁴ and (c) taxes on onion and garlic mentioned in *Mangal Bazar*⁴⁵ *inscription*. We may include the tax of fifty Jati Sulka Mrittika recorded in *Khopasi*⁴⁶ *inscription* in this list on the authority of Levy⁴⁷ who interprets it as a tax in kind (Basak⁴⁸ takes it as a cash tax).

Under the second category, we may include (a) the Sinkara of one Karsayana, Mallakara of 8 Panas mentioned in *Thankote*⁴⁹ *inscription* and (b) Mallapotakara and Saktabatakara of 4 Tamrika Panas recorded in *Lagantole*⁵⁰ *inscription*.

The third category of tax, the labour tax or Visti also had types as *Pasupati Vajraghara* and *Yengubahal Tole*⁵¹ *inscriptions* mention Sarva-Visti, while *Lagantole, Sonaguthi* and *Indramati*⁵² *inscriptions* record Bhatta Visti, Kasasthi Visti and Jhalandu Visti.

The revenue of Panchayats :

The revenue of Panchayats in ancient Nepal may be classified under four main heads :

42. *Ibid.*, Nos. XXIII, XXIV, XXV, XXVI and XXVII.

43. Gnoli, R.- *Nepalese Inscriptions in Gupta Characters*, Nos. XXXVII and LV.

44. *Ibid.*, Nos. XXXIX, XXXII and XLIII.

45. *Ibid.*, No. XXIII.

46. *Ibid.*, No. XXXI.

47. Levy, S.- *Le Nepal*, Pt. III (English translation), p. 62.

48. Basak, R. G.- *History of N. E. India*, p. 252.

49. Gnoli, R.- *Nepalese Inscriptions in Gupta Characters*, No. LVI.

50. *Ibid.*, No. LVIII.

51. *Ibid.*, Nos. LXXIII and LXXIV.

52. *Ibid.*, Nos. LXXVII, LXII and LXXVI.

- (1) Income from taxes.
- (2) Income from estates owned by them,
- (3) Income from fees and fines collected in connection with judicial decisions and
- (4) Income from tradings.

(1) Income from taxes included (a) the revenue from those taxes which were either exclusively allotted to the panchayats or those levied by them as corporate bodies, and (b) income from those central taxes which were partially or wholly allotted to them for performance of certain duties.

1. (a) : The Stela II of Harigaon⁵³ allots Sravanikadanam to a number of temples and religious institutions along with separate allotments for Sapela and Samanya panchayats and Gosthis. It must be noted that it is a general edict of Amsuvarman in the name of all the house-holders and agriculturists of Nepal, and as such the allotment of PU-7, PA-2 for Sapela panchayats, PU-3, PA-1 for Samanya and PU-2, PA-2 for Gosthikas may be taken as substantial amount of annual tax. Levy⁵⁴ takes it as a tax and clearly mentions "it is a question of a distribution of taxes, the beneficiaries are temples, institutions or persons belonging to all the religions of Nepal. The mention of expression 'Sravanikadanam' (श्रावणिकादानम्) confirms the view of its being an annual tax. Levy⁵⁵ interprets Sravanika as "a secondary formation from Sravana Audit or rather from Sravana the 5th month of the Caitra year corresponding to July-August. Perhaps the tax was collected at that time." The month of Sravana still being the first month of financial year in Nepal, this allotment of Sravanikadanam to the panchayats and their committees clearly indicates its being an exclusive tax meant for the local bodies. *Adinarayana*⁵⁶ inscription, which is dated about 32 years earlier than this, uses the expression Dana in the list of usual payments by the village. This leads us to consider that 'Dana' was the term used for the annual payments to both panchayats as well as religious institutions in order to distinguish it from the Royal taxes. Therefore the possibility of certain items of levy by Panchayats under 'Dana' cannot be ruled out. The *Naksal Narayan Chour*⁵⁷ inscription makes provision for annual payment of 1000 Pana Purana by the panchayat to the officer-in-charge of the Royal gate (Manadauvarik), which could not have been possible without the panchayat being vested with independent powers to levy taxes within its jurisdiction. Further the same inscription⁵⁸ records existence of a Committee for tax

53. *Ibid.*, No. XXXVI.

54. Levy, S.-*Le Nepal*, Pt. III (English translation), p. 80.

55. *Ibid.*, p. 82.

56. Gnoli, R -*Nepalese inscriptions n Gupta Characters*, No. XII.

'समुचित देय भागभोगकर पिण्डक दानादिभिः'

57. *Ibid.*, No. LXXXIII.

'प्रतिवर्षं भ भानदौवारिकस्य परा पुराण सहस्रम् एकम् पांचालिके देयम्'

58. *Ibid.*, No. LXXXIII.

(Karagosthi) in that village, which confirms the possibility of panchayat having independent powers to levy taxes.

1. (b) : The second type of income from taxes of panchayats included the whole or a certain percentage of central taxes, allotted to them for specific duties. The references to such taxes are made in a number of inscriptions. (1) *Taujha*⁵⁹ inscription records grant of the whole of Pindaka tax to a group of villages for repair and maintenance of a canal (Tilmaka). (2) *Mina Narayana*⁶⁰ inscription allots one tenth of the Pindaka tax to Gita panchayat for the purpose of worship in a temple, for regular panchayat feast (Panchalibhojanam) as well as for the repair and maintenance of a canal (प्रतिसंस्कारश). Similarly *Kevalpur*⁶¹ inscription records allotment of one twelfth of certain tax to Nupunn town.

2. Income from the estates belonging to the panchayats : There are two types of inscriptions proving the existence of such estates : (a) those which record them in course of the definition of boundaries of the villages or towns and (b) those which mention them in course of specific grants made to the panchayats and their allied institutions by the central government.

(a) *Pasupati Vajraghara*⁶² inscription records certain lands belonging to Hmuprim panchayat, and the administrative committee of Loprim panchayat (Loprimgramendra Gausthik). *Cyasal Tole* inscription⁶³ records the lands belonging to Punu panchayat and Dasami committee (Gausthika) as well as garden and land belonging to Loprim panchayat. In the same way *Narayana Chour*⁶⁴ inscription reveals a number of gardens and lands belonging to the panchayats and their committees, viz. Natapata Vatika, Sambalpur Vatika, Daksinakoli Vatika, Kara Gosthi Bhumi and Saptami Gosthi Bhumi.

Commenting upon *Cyasal Tole* inscription⁶⁵ Levy confirms the possession of the above-mentioned lands and gardens by the panchayats. He writes : "the panchayat possesses a garden in the neighbourhood of Dolacikhara name of Changu-narayana (Key Stela of Harigaon year 32.1.7) and to the north-east of this land, at a short distance, a field. The Gosthi of Loprim that appears to bear the name of Indra Gosthi has a field a little further to the north."⁶⁶

(b) The second group inscriptions also record a number of fields and a few gardens allotted to the panchayats by the central government for performance of

59. *Ibid*, No. L.

60. *Ibid*, No. LII.

61. *Ibid*, No. LIV.

62. *Ibid*, No. LXXIII.

63. *Ibid*, No. LXXXIX.

64. *Ibid*, No. LXXXIII.

65. *Ibid*, No. LXXIX.

66. Levy, *S.-Le Nepal*, Pt. III (English translation). p. 100.

specific duties. *Sundhara*⁶⁷ inscription places some fields under the Matin Grama panchayat for repair of a temple. *Taujha*⁶⁸ inscription grants a garden to a group of three villages for repair and maintenance of a canal (Tilmaka). *Lele*⁶⁹ inscription records grant of separate fields to a number of local committees as well as institutions, which seems to be sufficient for their particular functions. The list includes hospitals, rest-houses and committees, viz.

(1) Hospital	(आरोग्यशाला)	200 MA
(2) Rest-houses and other institutions like :		
Madhvayasala	(मध्वयशाला)	75 MA
Pascimasala	(पश्चिमशाला)	60 MA
Hiddhimasala	(हिद्धिमशाला)	20 MA
Uttarasala	(उत्तरशाला)	
Purvvasala	(पूर्वशाला)	10 MA
(3) Committees :		
Pradipa Gausthika	(प्रदीप गौष्ठिका)	60 MA
Paniya Gausthika	(पानीय गौष्ठिका)	40 MA
Mallayuddha Gausthika	(मल्लयुद्ध गौष्ठिका)	40 MA
Vaditra Gausthika or discussion forum	(वादित्र गौष्ठिका)	10 MA
Pranali Gausthika	(प्रणाली गौष्ठिका)	8 MA

A number of similar other committees are allotted separate land. Similarly *Valatole*⁷⁰ inscription records grant of three Ropanis (a measurement still prevalent in Nepal) of field to the committee for watering the roads (मार्गेन्मार्जन गौष्ठिका).

All these inscriptions thus prove possession of a number of agricultural fields as well as gardens by the panchayat, which formed an important part of their revenue.

Income from fees and fines in connection with the judicial decisions—by panchayat courts has been no less important item of its revenue. *Naksal Nārāyaṇa Chour*⁷¹ inscription which is extremely mutilated in its first part clearly makes provision for a fee to be charged for Sampratipattau which has been interpreted by Levy as fee for agreement,⁷² in a case. Similarly the above inscription

67. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. XXXVIII.

68. *Ibid*, No. L.

69. *Abhilekh Samgraha*, Part I, pp. 29-31.

70. *Ibid*, p. 13.

71. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. LXXXIII.

72. Levy, S.-*Le Nepal* (English translation), Pt. III, p. 129.

makes provision for a fee to be charged for the decision of cases (निर्णय व्यवहार भाग).⁷³ The above fees may be compared with the court fee charged by our modern courts. By adding the expression that "all the payments regarding conduct of a case are to be made by the panchayat,"⁷⁴ the inscription removes all doubts against the authority of panchayat court in receiving these fee connected with law suits.

The income from fines in connection with the cases of non-Panchaparadha were another source of income to the panchayats. The inscriptions of *Pasupati Vajraghara* and *Yengu Bahal Tole*⁷⁵ mention a fine of 100 Panas for "death of a pregnant lady in course of suppression of embryo," and 3 Panas for "ill treatment towards an animal of bovine species."⁷⁶ *Naksal Narayana Chour*⁷⁷ inscription also mentions a fine of 100 Panas for death of pregnant lady in course of suppression of embryo. Levy while interpreting *Yengu Bahal Tole*⁷⁸ inscription seems to have been mistaken in taking the expression "Gurvini Marane Garbhodharanaya Pana Sata Deyena" as, "in case of murder of a pregnant woman or the suppression of the embryo, he will be let off with a fine of one hundred Panas only."⁷⁹ This would mean two separate fines of 100 Panas, one for murder of a pregnant lady and the other for suppression of embryo. It is not so because (1) murder has been mentioned as one of the five sins having capital punishment in the same inscription and a murderer of a pregnant lady cannot be supposed to be let off with only a punishment of 100 Panas, (ii) the inscription does not use the word murder (Hatya), it rather uses death (Marane), (iii) the inscription of *Narayan Chour*, uses the expression 'Sagarbhamarane'⁸⁰ which clearly means death of pregnant lady and finally the language of the above inscription itself clearly indicates it as being a single crime with a single punishment. Therefore it seems more justified to interpret the term "Gurvini Marane Garbhodharanaya"⁸¹ to mean "in case of death of a woman in course of suppression of embryo." Apart from these, the possibility of similar fines in other cases also cannot be ruled out. Therefore fees and fines in course of judicial decisions by panchayat courts seem to have fetched considerable income.

73. *Ibid*, p. 129.

74. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. LXXXIII (Ils. 30).
'व्यवहार परिनिष्ठ द्रव्य पांचालिकेन दातव्यम्'

75. *Ibid*, No. LXXIII and LXXIV.

76. *Ibid*, No. LXXIII.

'गुर्विणी मरणो गर्भोधारणाय' 'सक्षतगोष्ठपञ्चगापचारे'

77. *Ibid*, No. LXXXIII.

78. *Ibid*, No. LXXIV.

79. Levy, S.-*Le Nepal*, (English Translation) Pt. III, p. 125.

80. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. LXXXIII.
'सगर्भ मरणो'

81. *Ibid*, Nos. LXXIII and LXXIV.

'गुर्विणी मरणो गर्भोधारणाय'

4. Income from trade and commerce :

The last but not the least important has been the income of panchayats from the trading functions undertaken by them from time to time. The state encouraged them in these enterprizes. *Chapagaon inscription*⁸² which has been extremely mutilated, lists varieties of fish. The above inscription also records certain privileges given to the panchayat regarding their purchase and sale of fish. This is supported by *Bungamati*⁸³ inscription which grants certain privileges to the village as a reward for their successful handling of poultry, boar and fish trades. A third inscription revealing the trades of panchayats is the *inscription of Changunarayana*,⁸⁴ which is addressed to the panchayat of Gundimaka village. It permits the panchayat to sell wood and charcoal to some extent.⁸⁵ By prescribing that the panchayat may not take action against those individuals who, by lack of knowledge of law, prepare charcoal themselves,⁸⁶ the edict clearly indicates that the selling of wood and charcoal was exclusively a business of the panchayats for which the individuals were not permitted. Therefore collective trading by the panchayats seems to have fetched a revenue for them.

82. *Ibid*, No. XXXII, lls. 6 to 8 and 5.

‘काष्ठिकामत्स्य, भुकुण्डिका मत्स्य, राजग्रीव मत्स्य’
मत्स्यो पक्रनंकृत्वा प्रतिनिवर्तमानानाम् ।

83. *Ibid*, No. XXXIX (line 5).

‘कुक्कुट सूकर कराणा—नाम मत्स्यानांचावधानेन् परितुष्टैः’

84. *Ibid*, No. XXXIV.

‘— विक्रेयाश — अशेषम् अविक्रेयम्’

85. *Ibid*.

‘यथा प्रतिषिद्ध वस्तुद्रयम् अज्ञानाद्यार्थन् ग — दिक् — भवद्भ्योमुच्येत —’

86. *Ibid*.

CHAPTER VII

CENTRAL CONTROL

Central-Local Relationship :

The ancient Hindu states were normally unitary in character. The king was the source from which the powers of all local institutions as well as officials were derived. The village panchayats, town corporations, trade guilds, as well as religious Ganas, all were subject to the central control and supervision.¹ Long established traditions, however, limited the scope of state intervention, which was applied only when the institutions were guilty of a breach of constitution or traditional rules.

The system of government in ancient Nepal was monarchical no doubt, but it was like a Vedic monarchy, "limited and constitutional and subject to the checks of defined democratic elements, as part of constitution."²

The Hindu polity by its very nature stood for liberal local autonomy and self-government of groups and associations. It never stood for extreme centralization or over-government. Therefore, there was sufficient scope for the development of the natural associations and groupings as autonomous self-governing units.³

The state and society co-existed to a very large extent, each of them maintaining its independence as a separate unit to a certain extent, in the field of national and local activities. Both of them had their independent organism and well-defined functions. Since the limit of state interference was defined and fixed, the scope for the encroachment upon the activities of local organizations was very limited. The function of state was generally restricted to "the minimum and a policy of non-interference was recognised as the ideal policy of the central government."⁴ It was limited to the protection of life and property and realization of the taxes for proper execution of these functions. This well-understood delimitation of central and local functions created a spirit of co-operation among the various agencies for the promotion of the common well-being of the people.

1. Altekar, A. S.-*State and Government in Ancient India*, p. 41.

2. *Journal of Indian History*, Vol. V, p. 584.

3. *Ibid.*, p. 585.

4. Mookerjee, R. K.-*op. cit.*, p. 3.

The state was an aggregate of local associations, loosely knit together by "the military principles and the principles of *Dharma*."⁵ There were guilds, corporations, and many other groups with "notions of elementary justice and social ideals."⁶ Actually the references to autonomy of castes, guilds and corporations lead us to believe that the local institutions of various types, social, economic, political and religious created something like a federal society.

However autocratic a king might have been, he rarely thought of changing the political system itself. By his personality, temperament and predilections, he could influence the administration, but the polity remained unchanged on the whole. "The king was the protector, preserver and promoter of the society, religion and body politic, but not the maker of it. The relationship with the social, religious and other associations was directed by the *Sastras* and other religious books which were the final authority."⁷

The difficulties of natural environments, the impregnable hills and dense forests had to be overcome by the inventiveness of man. This has been specially managed through a scheme of maximum and extensive decentralization. There was a great latitude for the operation of local bodies in Nepal. Each village or town existed as an independent unit at work, in order to cope with the administrative requirements of the territory. For this purpose a fairly adequate administrative machinery was in existence since the time of Basuraja,⁸ or even earlier, which continued throughout the Licchavi period. Indications of changes in dynasties and upheavals after and before the reign of Amsuvarmana⁹ are not lacking in the inscriptions, but on the whole there seems to be little effect on the pattern of local-government. "The essence of all this," in words of Dr. Mookerjee,¹⁰ "was the preservation of local autonomy at the expense of the central government which was physically unfit to assert itself except by its affiliation to the pre-existing system of local government."

Control by law :

There was no sharp distinction between "religious ordinances moral practices and positive injunctions of secular law"¹¹ in ancient periods. They were mixed together and an individual had to adjust himself to them as far as he could.

There were two primary sources of law, (1) the sacred literatures and (2) the local usages. The sacred literatures included the Vedas, the Smritis and the Puranas. The local usages, on the other hand, included not only the usages and customs gene-

5. Rao, M. V. K.-*Studies in Kautilya*, p. 58.

6. *Ibid.*, p. 65.

7. Paul P. L.-*The Early History of Bengal*, p. 154.

8. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. LIV.

9. *Ibid.*, Nos. I and LXVI.

10. Mookerjee, R. K.-*op. cit.*, p. 10.

11. Majumdar, R. C.-*Ancient India*, p. 153.

rally prevalent in the country, but also those which were prevalent in a village, in profession of religious order, and in a single family unit.

The local associations developed a distinct body of laws or bye-laws to regulate their own activities and the authority of such law and customs has been recognised as early as *Rigveda* (VIII. 30.3)¹² and by the later substantive laws mentioned in the Smritis (which are based on the Vedas). Haradatta¹³ has explained that the legal decision of a king must be in conformity with that which is declared to be the established law in a particular community by its "authorized and accredited spokesmen and representatives, who are entitled to define it on their behalf."

The sanctity of the rules made by the local institutions has been emphasized by Brihaspati also. According to him, "a compact formed among the villagers, companies (of artisans) and associations is (called) an agreement, such (agreement) must be observed both in time of distress and for acts of piety."¹⁴ The *Gautama Dharma Sutra*, authorizes the "cultivators, traders, herdsmen, money-lenders and artisans, to lay down rules of their respective classes and the kings had to give their legal decisions after having learned the (state of) affairs from those who (in each class) had authority (to speak)."¹⁵ *Manusamhita* refers to Sreni-Dharma or usages of guilds having force of law. It prescribes "A king who knows the sacred law must enquire into the laws of castes (*Jati*), of district, of guilds and of families, and thus settle peculiar law of each."¹⁶ This opinion of Manu has been confirmed by Vasistha who writes, "let the king paying attention to all the laws of countries (sub-divisions of), castes (*Jati*), and families, make the four castes (*Varna*) fulfil their respective particular duties."¹⁷ The authority of local laws has been recognized by *Apastamba*¹⁸ (11, 15, 1) and *Baudhayana* (I.1-2-6) also. According to *Baudhayana* "for each (of these customs), the (rules of the) country should be (considered) the authority."¹⁹ In the Santi Parvan of the *Mahabharata*, Yudhisthir speaks, "I have never done away with the special customs of families and of countries obtaining from the days of Yore."²⁰

The kings not only respected the local customs, but they also maintained a regular record of 'the history of customs, professions and transactions of countries, villages, families and corporations.'²¹ Kautilya specifically mentions that the

12. Mookerjee, R. K.-op. cit., p. 127.

13. Mookerjee, R. K.-op. cit., p. 125.

14. Jolly, J.-*The Sacred Books of the East*, Vol. XXXIII, Pt. I, p. 347, verse XVII.5 (translation).

15. Majumdar, R. C.-*Corporate Life in Ancient India*, p. 24.

16. Buhler, G.-*The Sacred Books of the East*, Vol. XXV, p. 260 (VII. 41) (translation).

17. Buhler, G.-*The Sacred Books of the East*, Vol. XIV, Pt. II, p. 96 (XIX. 7) (translation).

18. Mookerjee, R. K.-op. cit., p. 126.

19. Buhler, G.-*The Sacred Books of the East*, Vol. XIV, Pt. II, p. 146, (I. 1-2-6) (translation).

20. Dutta, M. N.-(ed. by)-*The Mahabharat*, chapter, LXVII, p. 114.

21. Majumdar, R. C.-*Ancient India*, p. 153.

authorities must enter into their records "the laws, the manners and the customs of caste, families, guilds and localities."²² Finally, according to Brihaspati mentioned in *Vyavaharamayukh*, the civil law itself seems to have primarily evolved out of the ancient customs, which has been defined as "the decision which is given according to the customs of the country (*Desa Sthiti*), reasoning and council of lay public (*Naigamas*)."²³

However, it should not be concluded from this that all customs or usages of local origin were accepted by the kings as laws. They had to be accepted only if they conformed to the sacred laws. Brihaspati very clearly writes about this also that "such customs as are not opposed to the laws of particular countries and castes or other (corporations), every king should establish in accordance with the sacred law after consulting the law-books."²⁴

The king had also to see that the members of these local institutions observed their own laws and the violation of them was made punishable. According to Yajna-alkya, "the king must discipline and establish again on the path of duty, all such as have erred from their own laws, whether families, castes, guilds associations or people of certain district."²⁵ Visnu also holds that "the duty of the king is to protect his people (and) to keep the four castes and four orders in practice of their several duties."²⁶ The above views have been further confirmed by Narada that "among heretics, *Naigamas*, guilds, corporations, troops or company of soldiers, assemblage of kinsmen and other (associations), the king must maintain the usage settled among them both in the fortified towns and in open country."²⁷

The culture, civilization as well as the social, political and religious concepts of the Licchavis of Nepal had been exactly the same as those of the states on the plains of India at that period. According to Dr. Basak "the society, religion and politics of this wonderful country—an uninterrupted succession of hill and valley—as represented in her early epigraphic records, are distinctly of the same type and order as in the rest of India" and "Nepal enjoyed no civilization alien to that of India herself."²⁸ Therefore there can be little possibility of its having a different relationship between the local usages, the sacred literatures and the statutes issued by the kings from time to time. The recognition of Sastras as authority for law has been revealed

22. Mookerjee, R. K.-op. cit., p. 126.

23. *Vyavahara Mayukha* of Bhatta Nilkanth, ed. by P. V. Kane, p. 7 (2-5).

"देश जाति कुलानांच ये धर्माः प्राक्प्रवर्तिताः ।

तथैव ते पालनीयाः प्रजा प्रक्षुभ्यतेन्यथा ।"

24. Jolly, J.-*The Sacred Books of the East*, Vol. XXXIII, Pt. I, p. 390.

25. Mookerjee, R. K.-op. cit., p. 128.

26. Jolly, J.-*The Sacred Books of the East*, Vol. VII, p. 14 (III-1-3).

27. Jolly, J.-*The Sacred Books of the East* (Tenth title of law) Pt. I, p. 153.

28. Basak, R. G.-*History of North Eastern India*, p. 302.

by a number of inscriptions of that period. The *Yengaliti*²⁹ inscription addresses king Narendradeva as having the knowledge of all sacred literatures. Similarly the inscriptions of *Pasupativajraghara* and *Yengubahal*³⁰ conclude with a quotation mentioning as *Dharma-Sastra* speaks." This is enough to prove the influence of *Dharma-Sastras* on the laws of Nepal. However, the *Naksal Narayana Chour*³¹ inscription goes further in revealing the influence of *Sastras* on the laws. It prescribes that the *Surodauvarika* should follow the *Sastras* strictly. Levy while commenting upon his inscription No. 21 writes "in line 3 which is mutilated the mention of the *Dauvarika* is immediately followed by the expression of *Yatha Sastranugata* (acting in agreement with the *Sastras*)."³²

On the other hand the *Khopasi*³³ charter of Amsuvarmana which prescribes that "all the local issues shall be decided at village level" indicates the recognition of local usages by the king. This is further supported by the *Ganesh*³⁴ temple and *Narayana*³⁵ temple charters, which recognize the panchayat's powers to decide all the local issues themselves. In addition to these a number of inscriptions reveal that the kings while prescribing a law did it only from the point of view of maximum welfare to the people. In *Budha Nilkantha*³⁶ charter Amsuvarmana mentions that it has been issued for the benefit of the people. Similarly Jisnugupta in his edict of *Minanarayana*³⁷ declares that it has been issued "in order to bring peace among the people." Thus there seems to be sufficient reasons for establishing that the local usages and institutions were well considered by the kings in prescribing the law of land and we may conclude on the basis of the authorities and inscriptions quoted above that the system of legislative control over the local bodies was based upon the principle of maximum recognition of the local usages, subject to their conformity with the *Sastras* and the laws of the state.

Administrative Control :

So far as the departments of administration and their officials are concerned the inscriptions of *Chaukitar* and *Ganesh* temple of Deo-Patana, use the term

29. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. LXVI.

"शक्त्या बाहुबलम् मत्तिम् स्मृतिमतिम् शास्त्रागमैर्भूरिभिः"

30. *Ibid.*, Nos. LXXIII and LXXIV.

"यतो धर्मशास्त्र वचनम्"

31. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. LXXXIII.

"सुरोदीवारिकेणापि यथाशास्त्रानुगत...."

32. Levy, S.-*Le Nepal*, Pt. III (English translation), p. 130.

33. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. XXXI.

34. *Ibid.*, No. XLI.

35. *Ibid.*, No. LXVIII.

36. *Ibid.*, No. XXVII.

"युष्मद् हित विधानाय विज्ञापितेन"

37. *Ibid.*, No. LII.

"सकल जन निरूपद्रवोपाय संविधानापित मानसः"

Adhikarana.³⁸ On the other hand the *Balambu* and *Maligaon* inscriptions use the expression "*Vrittibhuja*³⁹ (वृत्तिभुज)." In between them are a number of other inscriptions⁴⁰ which either mention "*Vrittyadhikritanam* (वृत्त्याधिकृतानाम)" or "*Adhikarana Vrittibhujo* (अधिकरण वृत्तिभुजो)." Therefore it is essential to distinguish the meaning of the above two expressions, the *Adhikarana* and the *Vrittibhuja*. The inscription of *Maligaon*⁴¹ which uses both the expressions throws sufficient light on this issue. The above charter directs the *Mapchokadhikarana*⁴² (माप्चोकाधिकरण), to take care of the ladies who go issueless during their second marriage and at the same time it prescribes that the wealth of such ladies shall be taken over by the *Mapchokavrittibhuja*⁴³ (माप्चोकवृत्तिभुज). In the same way in the *Ganesh* temple inscription has been addressed to the *Pascimadhikarana Vrittibhuja*⁴⁴ (पश्चिमाधिकरण वृत्तिभुज), while the same charter restricts the entry of *Pascimadhikarana*⁴⁵ (पश्चिमाधिकरण) in the panchayat area. From these two inscriptions it is evident that the expression *Vrittibhuja* (वृत्तिभुज) has been used for a department, while *Adhikarana* (अधिकरण) for the officials of a department.

The addresses of Chandella grants (in India) mention the Brahmana Adhikratas, the Kutumbins, the Kayasthas and the Dutaka. Of these the term '*Adhikrita*' has been interpreted by Dr. Dikshit as 'Local administrative officials.'⁴⁶ This further confirms the view that the expression *Adhikarana* used in the Nepalese inscriptions is the synonym for local authorities appointed on behalf of the central government.

Altogether 17⁴⁷ inscriptions of Licchavi age mention the departments or

38. *Ibid.*, Nos. XIX and XLI.

"कूथेर शुल्याधिकरणाभ्याम्" — "पश्चिमाधिकरण"

39. *Ibid.*, Nos. LV and LVII.

"गीनु वृत्तिभुजो" — "माप्चोक वृत्तिभुजा"

40. *Ibid.*, Nos. XXIII, XXIV, XXV, XXVI, XXVII, XLI etc.

41. *Ibid.*, No. LVII.

42. *Ibid.*, No. LVII.

"तासु माप्चोकाधिकारोयम् यथा व्यवस्था प्रवर्तयि तव्यं"

43. Gnoli, R.-*Ibid.*, No. LVII, 11.17.

"धनम् तम माप्चोक वृत्तिभुजोप्राह्यम्"

44. *Ibid.*, No. XLI, IIs. 5-7.

"पश्चिमाधिकरण वृत्तिभुजो वर्तमानान् भविष्यतस् च यथाहि कुशलम आभाष्य समाज्ञापयति"

45. *Ibid.*, No. XLI, IIs. 14-15.

"पश्चिमाधिकारस्याप्रवेशेन प्रसादः कृतो"

46. *Journal of U. P. Historical Society*, Vol. XXIII (1952), p. 244.

47. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. XII, XIII, XV, XIX, XXIII to XXVII, XLI, XLII, XLVII, LXXI, LXXII, LXXIII, LXXIV and LXXVII.

authorities connected with the villages and towns. Out of these, seven⁴⁸ inscriptions ban the entry of *Chata* and *Bhata* in these areas. The absence of the expression *Adhikarana* or *Vrittithuja* along with *Chata* and *Bhata* in all these inscriptions indicates the possibility of their not being treated as regular departments of the government. The mention of *Chata* and *Bhata* has not been uncommon in the Indian inscriptions of that period. The order of Mahasamanta-Maharaja Visnu Sen⁴⁹ mentions *Chata* and *Bhata* in its address. Khoh Copper Plate inscriptions⁵⁰ of Maharaja Hastin, ban the entry of *Chata* and *Bhata*. These expressions have been interpreted as meaning "regular and irregular soldiers with duty of policemen, watchmen or peons."⁵¹ According to Dr. R. K. Mookerjee, "a village was granted the privilege of non-entry of regular and irregular troops so as to be free from exactions."⁵² Therefore we may safely exclude *Chatas* and *Bhatas* from the list of regular channels of administrative control.

On the authority of *Lajantole* and *Balambu* inscriptions⁵³ which use the expression "all the four authorities," it seems logical to accept the four departments of Kuthera, Mapchoka, Lingval and Sulli as the main channels of central control over the panchayats. To these the departments of eastern and western range⁵⁴ also may be added which are recorded in the inscriptions of *Ganesh* temple and *Naksal Narayana Chour*,⁵⁵ because of the importance of *Pascimadhikarana* (पश्चिमाधिकरण) shown in the inscription of *Ganesh* temple.⁵⁶ The above inscription has mentioned this department in connection with transfer of its authority over *Adhahsala* panchayat to the *Antarasana* (अंतरासन). Therefore it seems to be well established that the following five departments were connected with the control of the administrative functions of panchayat in Nepal during Licchavi period :

- | | | |
|---------------------|----------------|-----|
| 1. Kuthera | (कूथेर) | |
| 2. Mapchoka | (माप्चोक) | |
| 3. Lingvala | (लिग्वल) | |
| 4. Sulli | (शुलि) | and |
| 5. Pascimadhikarana | (पश्चिमाधिकरण) | and |
| Purvadhikarana | (पूर्वाधिकरण) | |

48. *Ibid.*, Nos. XII, XXIV, LXXII, LXXIII, LXXIV, LXXVI, and LXXVII.

49. *Epigraphic Indica*, Vol. XXX, p. 168.

50. Mookerjee, R. K.-*The Gupta Empire*, p. 108.

51. *Epigraphic Indica*, Vol. XXX, p. 168.

52. Mookerjee, R. K.-*The Gupta Empire*, p. 108.

53. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. XIII, XIX.

54. *Ibid.*, Nos. XLI and LXXXIII.

‘पूर्वाधिकरण और पश्चिमाधिकरण’

55. *Ibid.*, Nos. XLI and LXXXIII.

56. *Ibid.*, No. XLI.

*Sukraniti*⁵⁷ mentions the qualifications of six officers of village or town level :

1. Sahasadhipati (साहसाधिपति) or the officer-in-charge of punishment of criminals.
2. Grama Adhipati (ग्राम अधिपति) or the officer-in-charge for protection of the people from the thieves and bandits.
3. Bhagahara (भागहर) or collector of royal share in the products.
4. Lekhaka (लेखक) or scribe.
5. Pratihara (प्रतिहार) or expert in law, (perhaps in-charge of legal interpretations).
6. Saulkika (शौलिकक) or collector of taxes.

Therefore the existence of five or six channels of administrative control during Licchavi period seem to be probable.

1. Kutheradhikarana (कूथेराधिकरण) :

The importance of the department of Kuther is revealed by the frequent mention of it in the inscriptions of *Vasantadeva*, *Ganadeva* and *Amsuvarmana* between 513 and 596 A. D. Altogether eight⁵⁸ inscriptions found at different places of Nepal, viz. Lagantole, Balambu, Choukitar, Mangalbazar, Golmadhi, Tulacchentole, Dharampur and Budhanilakantha mention the existence of Kuther department or officials in villages or towns. Of these the five⁵⁹ inscriptions of Amsuvarmana clearly indicate the function of this department in mentioning that they were allowed to enter the village or town for the purpose of realising the three types of taxes only, but were prohibited from interfering with the justice of five sins.⁶⁰ Levy while discussing the inscription No. IX of his series, interprets lines 9, 10 and 11 as follows "I do authorize (the Kutheradhikarana) to penetrate in the village according to custom, only to receive the three taxes; but for handing over of the written document for the five crimes etc., its entry is forbidden."⁶¹ Sri Gyanmani of Nepal also interprets the *Choukitar* inscription in a similar way and affirms that the Kuther department was allowed entry for realization of the three taxes and was not permitted to interfere with justice of five sins.⁶²

Thus it is established beyond doubt that the Kuther department was meant for the realization of the royal taxes for which they were allowed to enter the villages

57. *Sukraniti* (ed. by Mihirchand), p. 41.

58. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. XIII, XV, XXIII to XXVIII.

59. *Ibid.*, Nos. XIII, XXIV to XXVII.

60. *Ibid.*, Nos. XXIV to XXVII.

61. Levy, S.-*Le Nepal*, Vol. III (English translation), p. 55.

62. Gyanmani-*Nepal Ko Prachin Itihas Ma Naya Prakas*, p. 67.

and towns on behalf of the central government. However it is difficult to locate its exact range of activity, specially because the exact meaning of the term, Tri-Kara or three taxes has not been ascertained. We may either take it to include (i) Bhaga-Bhoga or Royal share in kind, (ii) Hiranya or cash tax and (iii) either Pindaka (most probably agricultural tax) or Visti the human labour tax. *Sukraniti*⁶³ mentions the existence of two separate officers, one for collecting the Royal share in kind, who was called the Bhagahara and the other called the Saulkika for collecting cash taxes, but the inscriptions of Nepal do not mention any authority parallel to the Bhagahara. Further even the Royal share in kind seems to have been categorized under the term *Kara* in Nepal. This is proved by *Sanga*⁶⁴ and *Balambu*⁶⁵ inscriptions read together. The former mentions the Royal share of twelve pots of oil (द्वादश तैलघटाः) while the latter uses the phrase oil tax (तैल्यकरम्). Therefore Kuther has been connected with the collection of all sorts of Royal taxes in the villages and towns and we may take this department as the only means of financial control over the local bodies at village and town level.

2. Mapchokadhikarana :

Lagantole and *Choukitar*⁶⁶ inscriptions mention Mapchoka along with three other authorities, the Kuther, the Lingval and the Sulli and prohibit all of them from interfering with the justice of five sins.⁶⁷ *Lumjhyā* inscription reveals that the authorities of Mapchoka had gone unruly and the people were very much troubled by their atrocities.⁶⁸ The mention of *Bhata* or military people along with Mapchoka in this inscription indicates that this department was more powerful than its other counterparts viz., Kuther, Lingval or Sulli. The *Maligaon* inscription which prescribes the laws of succession and arrangements about the ladies marrying for the second time, authorizes the department of Mapchoka to take over the property and wealth of certain class of ladies and directs its officials to make arrangements of such ladies (probably for their look-after).⁶⁹ The above inscription also prescribes that in some other cases the Mapchoka officials shall not get their share (in property or wealth).⁷⁰

63. *Sukraniti* (ed. by Mihirchand) p. 41.

64. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. XXXVII.

65. *Ibid.*, No. LV.

66. *Ibid.*, Nos. XIII and XIX.

67. *Ibid.*, Nos. XIX (Ils. 8-9).

‘पंचापराध द्वारेण चतुर्भिः अपि अधिकरणेरन्तः प्रवेष्टव्यम्’

68. *Ibid.*, No. LXVII (Ils. 10-11).

‘भट माप्चोकाधिकारयोः प्रावल्याद अवश्यम् जनस्य महतौ पीडिते’

69. *Ibid.*, No. LVII (Ils. 15, 16 and 17).

‘द्वितीयम् संग्रहम् उपयाता निः पुत्रवत्यो भविष्यन्ति तासु माप्चोकाधिकारोयम् यथा व्यवस्थम् प्रवर्तयितव्यम्’ ‘च धनम् तम् माप्चोकवृत्तिभुजा ग्राह्यम्’

70. *Ibid.*, No. LVII (Ils. 20-21).

‘ता अपि यदि पुत्रवत्यो भविष्यन्ति नैव माप्चोकाधिकार भागवेयाः ।’

Thus we may draw two conclusions regarding the nature of the functions of Mapchoka from the above inscriptions : (i) that its functions included the management of certain class of property as well as care of the ladies whose property passed on to the state and perhaps of the unclaimed or abandoned children also, and (ii) it was allotted some share which may be a tax in kind (as the term used is Bhaga).

Since *Lumjhya*⁷¹ inscription mentions the atrocities of this department and *Lagantole*⁷² and *Choukitar*⁷³ inscriptions forbid its interference with the justice of five sins, the possibility of this department being vested with many more functions cannot be ruled out.

A department like Drona-Mapaka (द्रोण-मापक) has been mentioned in *Jatakas*.⁷⁴ Drona was a type of land measurement in ancient India and the department in charge of measuring land through the system of Drona was named as Drona-Mapaka. The inscriptions of Nepal reveal that Pindaka (पिण्डक) and Mani⁷⁵ (मानि) were the terms used for the measurement of land instead of Drona. Therefore an officer like Drona-Mapaka must have been given some other synonym. It seems that the term Mapa has been common to both Drona-Mapaka as well as Mapchoka which undoubtedly carries the meaning of 'measurement'. Therefore there seems to be possibility of the department of Mapchoka being connected with the measurement and management of land. This view is supported by the *Maligaon*⁷⁶ inscription which puts the management of unclaimed property with it. The term Choka on the other hand still means a 'court-yard' in Nepal and there have been instances of offices being named by the court-yard in which they are located (Kumari Choka was the name of the Audit Department of Nepal till very late and it was abolished only after the fall of Ranarchy). Therefore the department of Mapchoka seems to be connected with civil administration, land measurement, land acquisition and management of property at village and town level.

3. Lingval Adhikarana :

Five Licchavi inscriptions⁷⁷ refer to the name of Lingval authorities. The inscriptions of *Choukitar* and *Manal Bazar*,⁷⁸ simply restrict its interference in the justice of five sins, while *Bhansahiti*⁷⁹ inscription indicates possession of horse

71. *Ibid.* No. LXVII.

72. *Ibid.*, No. XIII.

73. *Ibid.*, No. XIX.

74. Bandopadhyaya, N. C.-*Development of Hindu Polity*, etc. p. 104.

75. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. X.

76. *Ibid.*, No. LVII.

77. *Ibid.*, Nos. XIII, XIX, XXIII, XLII and LVI.

78. *Ibid.*, Nos. XIX and XXIII.

79. *Ibid.*, No. XLII, 11.7.

and bullock-carts as well as oxen by this department. *Kevalpur*⁸⁰ inscription seems to point towards certain functions of this department, but the lines being broken, it only indicates something like division of certain materials into half and half. The charter mentions "we change the system adopted by the earlier kings and restrict the entry of Lingval and Sulli for the purpose of division into half and half (of certain materials)." According to Gnoli it reads Dankhuttardhadi⁸¹ (दन्खुट्टार्धादि). while Gyanmani of Nepal only reads—Ttardhadi⁸² (ट्टार्धादि). In either case it is difficult to locate the clear meaning of it. However, the two inscriptions of *Bhansahiti* and *Kevalpur*⁸³ indicate that the department of Lingval probably was connected with realization of certain state dues in kind.

Katyayana⁸⁴ puts Lingin side by side with Vargin, Sreni, Puga and other organizations of trade communities. Dr. R. K. Mookerjee explains the term Lingin used by Katyayana as persons wearing Linga or symbol and probably belonging to Pasupata religion. Therefore the possibility of Lingin being a class of people or a class of traders cannot be ruled out and in that case Lingval may be taken as the department connected with the realization of Royal share from the Lingins. But there seems to be no positive proof for this conclusion. There is also possibility of Lingval being connected with higher judicial functions or its being an agent of central judicial court at village or town level and its interference in local justice was probably prohibited because of this fact. Hodgson⁸⁵ mentions that Kotlinga was the name of the highest court of appeal in Nepal during medieval period. "The regular appeal from provincial court of justice lies to the supreme court of the capital or Kotlinga."

In any case there is no doubt about the fact that 'Lingval Adhikarana' has been quite an important channel of central administration at local level.

4. Sullyadhikarana :

Lagantole, *Choukitar* and *Manjalbazar* inscriptions⁸⁶ prohibit the department in these inscriptions. But from the *Lagantole* and *Balambu* inscriptions,⁸⁷ it is evident that in general there were four departments connected with the administration at panchayat level.⁸⁸ Out of these four departments there has been

80. *Ibid.*, No. LIV.

81. *Ibid.*, No. LIV, 11.17.

"दन्खुट्टार्धाधिकरणीय प्रतिमोचनार्थम्"

82. Gyanmani, *Nepal Ko Prachin Itihas Ma Naya Prakas*, pp. 67-68.

83. Gnoli, R., *Nepalese Inscriptions in Gupta Characters*, Nos. XLII and LIV.

84. Mookerjee, R. K., *Local Government in Ancient India*, p. 139.

85. Hodgson, B. H., *Miscellaneous Essays*, p. 214.

86. Gnoli, R., *Nepalese Inscriptions in Gupta Characters*, Nos. XIII, XIX and XXIII.

"लिङ्गल शुल्लि पंचापरधादि निमित्तन् त्व अप्रवेश"

87. *Ibid.*, Nos. XIII and XIX.

88. *Ibid.*, Nos. XIX (lls. 8-9).

"चतुर्भिर्अपि अधिकरणैर"

possibility of Kuther being in charge of tax collections and Mapchoka of land measurement and general civil administration. We have also been able to establish the possibility of Lingval being in charge of, either realization of some trade share or administration of appellate justice as central agency. Therefore there seems to be little possibility of Sulli being entrusted with any of these duties. There is no chance of mis-reading of the inscriptions leading to a mistake of Sulli for Saulkika or tax-collector mentioned in *Sukraniti*,⁸⁹ because all the three inscriptions⁹⁰ involved clearly mention either Sulli (शुलि) or Sullyadhikarana (शुल्याधिकरण). Further five inscriptions⁹¹ of Amsuvarmana clearly mention Kuther being in charge of realization of all the three taxes (त्रि-कर) and as such it would be a repetition of the same function under two departments, established side by side at the same place.

There is no mention of any official in the inscriptions of Nepal parallel to the Chodaka, Chauroddharanika, Dausadhnika or Danda-Pasika, mentioned in the *Arthasastra*⁹² and it does not seem reasonable to conclude that there was no official stationed at village level for apprehending and arresting the criminals or for the sake of general law and order. Apte explains the word Sula (शूला) as "a stake for impaling criminals" and the word Sula (शूलः) as "to be ill," "to make disorder."⁹³

Therefore there is greater possibility of Sullyadhikarana been entrusted with the function of apprehending and arresting the criminals and looking after the law and order at the local level along with the panchayats.

5. **Pascimadhikarana (पश्चिमाधिकरण) and Purvadhikarana (पूर्वाधिकरण)**

Deopatana *Ganesh temple* inscription⁹⁴ has been addressed to the Pascimadhikarana. The charter puts the management of a number of temples under the panchayat of Adhahsala⁹⁵ and restricts the entry of the western authorities in the area. Those issues, whether regular or irregular, which the panchayat was not in position to deal with, were now subjected to the perusal of the king himself through Antarasana (अंतरासन) instead of Pascimadhikarana.⁹⁶ This inscription reveals that prior to this take-over, Pascimadhikarana was vested with the power to look into those

89. *Sukraniti* (ed. by Mihirchand), p. 41.

90. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. XIII, XIX and XXIII.

91. *Ibid.*, Nos. XXIII to XXVII.

92. Paul, P. L.-*Early History of Bengal*, p. 116.

93. Apte, V. S.-*Sanskrit English Dictionary*, Pt. III, p. 1566.

94. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. XLI.

95. *Ibid.*, No. XLI, 11-13.

‘अधः शाला पांचालिकेभ्यः प्रतिपालनाया तिस्रष्ठानाम्’

96. *Ibid.* No. XLI-Ils. 15-18.

‘यदाच पांचालिकानाम् यत् किंचन कार्यम् एतदगतम् उत्पास्यते यथाकालम् वा नियमितम् वस्तुपरिहापयिष्यन्ति तदा स्वयं एव राजाभिअन्तरासनेन विचार करणीयो’

functions which were beyond the jurisdiction of this Panchayat. It is also clear that this type of superior administrative jurisdiction over other panchayats still continued with this department. *Naksal*⁹⁷ inscription which is quite mutilated clearly mentions the existence of Sri Purvadhikarana (श्री पूर्वाधिकरण) which seems to be a parallel department controlling the eastern part of Nepal.

The superior position of the western department (पश्चिमाधिकरण) is indicated by the edict which mentions that the king himself shall look into the matters through Antarasana,⁹⁸ Since Antarasana has been referred to as court of appeal in *Minanath* inscription,⁹⁹ doubts may be raised whether Pascimadhikarana and Purvadhikarana were judicial courts instead of administrative bodies and this doubt is further supported by the fact that while other departments like Kuther, Mapchoka, Lingval and Sulli¹⁰⁰ have been restricted from interfering with justice of five sins, no such ban has been mentioned against Pascimadhikarana.

On the other hand the inscription¹⁰¹ by using the expression "occasional or routined" (यथाकालम् वा नियमितम्) indicates the administrative nature of its works also. Levy¹⁰² while discussing the function of Dauvarika refers to Pascimadhikarana and Purvadhikarana as administrative divisions put (probably) under Dauvariks. "It is not improbable that the official appointed to each of the three gates could have had in his jurisdiction the adjoining districts. The inscription of *Nangsal* names the district of the East (Sri Purvadhikarana) and the inscription of *Amsuvarmana* year 39, names the district of West (Pascimadhikarana)."

Therefore Purvadhikarana and Pascimadhikarana may be taken as administrative divisions of higher scale vested with some judicial powers also, and thus they seem to be regular agencies of central control over panchayats.

Judicial Control :

The village courts have been mentioned in *Arthasastra*¹⁰³ as self-sufficing and independent of state control and their authority has been well-recognized by the state. The state felt obliged to accept the validity of "every local usage, customs of castes, community, clan and family, every bye-law of corporate bodies, the guilds and other such organizations."¹⁰⁴

Inspite of maximum recognition of the village courts, the state used to define their limits of jurisdiction and controlled them for the sake of justice and efficiency through various channels.

97. *Ibid.*, No. LXXXIII.

98. *Ibid.*, No. XLI.

99. *Ibid.*, No. LXXX.

100. *Ibid.*, Nos. XIII, XIX and XXIII.

101. *Ibid.*, No. XLI.

102. Levy, S.-*Le Nepal*, Vol. III (English translation), p. 132.

103. Dikshitar, V. R.-*Ancient Polity*, p. 168.

104. *Ibid.*, p. 168.

In addition to the limits fixed by *Dharmasastras*, the state from time to time issued statutes to control and guide the panchayat courts. *Pasupati Vajraghara* and *Yengu Bahal* inscriptions¹⁰⁵ prescribe fine of 100 Panas for death of a lady in course of suppression of embryo and 3 Pana Puranas for ill treatment towards an animal of bovine species.¹⁰⁶ In case of persons guilty of five sins they were to be handed over to the higher state court and their property confiscated. The state also prescribed the procedure of justice and various payments and fees to be collected by the panchayat courts and to be paid to the persons connected with the legal decisions. *Naksal Narayana Chour* inscription¹⁰⁷ reveals the procedure of cases, payments to be made to the persons connected with justice as well as court fees of the cases. The eye-witnesses (वेत्रोपस्थित साक्षिणाम्) were to be paid 20 Panas each by the panchayat court while the officials coming for post-mortem examination (मृतशोधनम्) were paid 100 Pana Puranas (पण पुराण) by the party. Similarly there is mention of a fee for judgment (निर्णोक्षि व्यवहार भाग) and a fee for agreement of a case also (सम्प्रतिपत्ती).¹⁰⁸ The inscription also makes it clear that these payments connected with the process of law were to be made by the panchayat.¹⁰⁹

Finally three types of courts with higher jurisdiction both appellate as well as original, existed at that period as revealed by the inscriptions :

1. Rajakula (राजकुल).
2. Antarasana (अंतरासन).
3. Paramasana (परमासन).

1. Rajakula (राजकुल) : *Bungamati* inscription¹¹⁰ prescribes that the cases connected with religious ostracism (धर्मशंकराणि) shall be referred to the Rajakula. *Minanath* inscription¹¹¹ prescribes that a person found obstructing the canal (तिलमक) shall be arrested and handed over to the Rajakula. *Pasupati Vajraghara* and *Yengu Bahal Tole* inscriptions¹¹² prescribe that only the person guilty of the offences of five great sins shall be handed over to the Rajakula. Dr. Basak also supports the view of Rajakula having superior jurisdiction. He writes, "we have a reference to an announcement in the epigraphic records to the people of Nepal, which

105. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. LXXIII and LXXIV.

106. *Ibid.*, IIs. 8-9 in LXXIII and 7-8 in LXXIV.

107. *Ibid.*, No. LXXXIII.

108. Levy, S.-*Le Nepal*, Pt. III (English translation), p. 129.

109. Gnoli, R. *Nepalese Inscriptions in Gupta Characters*, No. LXXXIII. 11.30.

‘व्यवहार परिनिष्ठितम् द्रव्यस्य जपग्र पांचालिकेन दातव्यम्’

110. *Ibid.*, No. XXXIX.

111. *Ibid.*, No. LXXX.

112. *Ibid.*, Nos. LXXIII and LXXIV, IIs. 10 and 9 respectively.

‘पंचापराधकारिणाम् शरीरमात्र राजकुलाभाव्यन्’

clearly indicates that the breakers of the public peace and obstructors of the public works such as water-courses etc. were produced in Royal court (Rajakula) for trial.¹¹³ However all the above-mentioned proofs record about the criminal jurisdiction of the Rajakula only which probably included both original as well as appellate above the the panchayat courts in certain respects. There is no clear mention of its appellate jurisdiction. But the fact that the panchayats decided the cases of five sins has been proved beyond doubt by a number of inscriptions¹¹⁴ and the mention of handing over the person guilty of these crimes to the Rajakula in the *Pasupati Vajraghara* and *Yengu Bahal Tole* inscriptions¹¹⁵ points towards the possibility of its having some appellate jurisdiction.

2. Antarasana (अन्तरासन) : *Kasaitole Deopatala* inscription notes that "those cases which were beyond the jurisdiction of panchayat shall be subject to the jurisdiction of Antarasana for the purpose of which the panchayat was put under Navagraha Gosthi (गोष्ठयो नवग्रह).¹¹⁶ *Minanath* inscription distinguishes between the powers of Antarasana and Rajakula courts, the former deciding the cases related to the canal (तिलमक) while the latter punishing the breakers and obstructors of the canal.¹¹⁷ Thus it establishes the superiority of Antarasana over the Rajakula.

The presence of king in the court of Antarasana mentioned in *Pasupati* inscription further establishes its superiority as a court. The inscription directs that those cases which were above the jurisdiction of panchayat shall be looked into by the king himself through the Antarasana.¹¹⁸

Therefore Antarasana may be taken as the highest court for all non-religious, civil as well as criminal cases.

3. Paramasana :

The highest tribunal for the cases connected with or decided by, the religious orders, was named as Paramasana. *Gairidhara* inscription which defines the functions of religious assemblies (धार्मिक गणानाम्), prescribes that donors may be aided by a maximum of 24 Maniks of grain by the Ganas in their adverse days. In case a claim for more aid is placed, it shall be subject to the decision of the Parama-

113. Basak, R. G.-*History of North Eastern India*, p. 300.

114. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, Nos. XIX, XXIII, XXIV, XXV etc.

115. *Ibid.*, Nos. LXXIII and LXXIV.

116. *Ibid.*, No. LXVIII, IIs. 26-27.

“च स्वयम् पांचालिकं निर्येतुम् न शक्यते तदा अंतरासनेन विचारयितव्यम् याश्च गोष्ठयो नवग्रह प्रतिवद्धास”

117. *Ibid.*, No. LXXX, IIs. 10-11.

“तिलमक सम्बद्धम् कार्यञ्च यद उत्पद्यते तद अंतरासनेनैव विचार्य निर्येतव्यम्”

118. *Ibid.*, No. XLI, IIs. 17-18.

“तदा स्वयम् एव राजाभिअन्तरासनेन विचारः करणीयो ।”

sana.¹¹⁹ *Pasupati Vajraghara* and *Patana Yengu Bahal* inscriptions¹²⁰ which are both charters of grant of Agrahara to the Buddhist Aryasamgha, declare that the issues which cannot be decided by the Aryasamgha shall be subject to the jurisdiction of the Paramasana.¹²¹ Therefore there seems to be no doubt about the fact that the Paramasana mentioned in the above inscriptions carried both original as well as appellate jurisdiction as the highest court in the cases connected with the religious orders.

The provision of four types of courts has been made by Brihaspati of which at least three can be located from the Nepalese inscriptions. According to the above writer, "judicial assemblies are of four sorts stationary, non-stationary, furnished with king's signet ring and directed by the king."¹²² The possibility of Antarasana functioning both with king's signet ring as well as his presence may be considered. *Arthasastra* also¹²³ mentions four categories of courts on the basis of law, viz. Dharma Vyavahara, Samsatha and Rajasasana. The presence of the courts like Rajakula and Antarasana above the panchayat courts indicates that inspite of maximum judicial powers granted to the panchayat courts in Nepal they were subject to regular inscriptions and control by these courts. Even the courts of religious order were not allowed free hand and, therefore, the provision of Paramasana was made to supervise and control them.

119. *Ibid.*, No. LXX, IIs. 21-23.

“अतोधिकन् दानपतिभिर्नग्राह्यम् यदा चात्र कार्यम् उत्पद्यते परमासनेन् विचार मात्र करणीयन्”

120. *Ibid.*, Nos. LXXIII and LXXIV.

121. *Ibid.*, Nos. LXXIII and LXXIV, IIs. 29-30 and 25 to 27 respectively.

“यदि कदाचिद् आर्यसंघस्याशक्य कार्यम् उत्पद्येत तदा परमासनेन् विचारणीयम्”

122. Mookerjee, R. K.-*Local Government in Ancient India*, p. 132.

123. Dikshitar, V. R.-*Mauryan Polity*, p. 168.

DEVELOPMENT OF PANCHAYATS IN NEPAL
PART II
THE MEDIEVAL PERIOD

CHAPTER I

THE GENERAL CONDITIONS

The medieval period of Nepal has been shrouded in darkness and very little materials for the study of the political institutions has been available so far. In the opinion of Levy, "the great discrepancies in the epigraphy, which no other document can fill up, prevents the study of the history of the institutions in the middle ages."¹ Petech also feels similar difficulties and remarks, "it is difficult to get even moderate idea of the medieval structure of the Nepalese state, because the colophones yield no materials, the chronicles very little and the few inscriptions hardly more."²

Levy feels inclined to divide the history of the institutions of Nepal into two broad periods : (1) the Newari period and (2) the Gurkha period. The Newari period according to him extends from 'the early period of positive history to the year 1768, which marks the complete ruin of the old indigenous dynasties.'³ Thus, according to him, this period covers twelve or thirteen centuries. The Gurkha period which begins with the conquest of Maharaja Prithvi Narayana Shah still continues. This classification of Levy only indicates the antiquity of Newars and richness of the materials for the study of earlier institutions, in their social, cultural and religious organizations. For the study of the medieval local institutions, however, it is essential to have a peep into the political conditions of the period. The whole of Nepal outside the valley of Kathmandu was divided into a number of states which have been grouped by the historians in Baisi and Chaubisi states. In the valley itself, Kathmandu was divided among twelve kings, while in Patana there were "as many kings as the cluster of houses (or Toles)."⁴

Thus throughout this period the country was sometimes divided among several kings and sometimes cut ad-infinitum into several principalities,⁵ till the conquest of 1768. This seems to be hardly a period of peace to allow free functioning of the local institutions. On the other hand, inspite of the turmoils and revolutions, which at times swept the dynasties and their supporters, the deep-rooted local organizations

1. Levy, S.-*Le Nepal*, Pt. I (English translation), p. 364.

2. Petech, L.-*Materials for the Study of Nepalese History and Culture*, p. 171.

3. Levy, S.-*op. cit.*, p. 357.

4. Levy, S.-*Le Nepal*, Pt. I:(English translation), p. 363.

Also Petech, L.-*Materials for the Study of Nepalese History and Culture*, p. 171.

5. Levy, S.-*op. cit.*, p. 357,

tried to retain their traditional temper. In words of Levy,⁶ "whether the sovereign power is in hands of an emperor or is dispersed among the rival chiefs, the commune, 'Grama' remains always in the eyes of the people the real and the only practical unit." He further remarks that "the masters of the houses (Kutumbins) whether they be house proprietor (Grihin) or field proprietors (Ksetrin) are the citizens of this elementary state."⁷ Therefore inspite of the adverse circumstances the village institutions survived the turmoils partly because of their being deep rooted and partly due to the fact that they were the only hope left for the people.

The valley of Kathmandu, where the town and town life played a more important part, retained the vitality of the community life through all these transformations,⁸ "when the growing prosperity of Nepal opened large towns they swallowed once separate communes within their walls, the new towns continued to form an agglomeration of small states; no sooner does the central powers weaken than these towns break up into districts, in independent clusters."⁹

The conditions in the valley compelled these small towns to depend upon themselves for their defence against the outside enemies and to manage their internal problems themselves. This gave opportunity to these local units to organize well internally. Two inscriptions of king Ranjitmalla dated 1730 and 1731 A.D.¹⁰ mention awards of prizes to the local organization (Pancha-Praja) for repelling attacks made by other states. An earlier inscription of king Yakshamalla,¹¹ similarly reveals that the fortification of Bhaktapur town was done by the people of that area.

Therefore the defence of the town was the responsibility of all the citizens who used to fight with the enemies because the kings were too weak to defend the people. This probably compelled them to retain their local organizations without which all this could not be possible. Further evidence shows the organized strength of the people asserting against the misdeeds and cliques of the palace in Kathmandu. Towards the year 1600 A. D. the people of Kathmandu expelled king Sadasiva,¹² because of his debaucheries and designated a scholar to be the king in his place. Another incident,¹³ from medieval history reveals that a 'petition of rights' signed by the ministers, officers and the municipal corporations of the valley was taken by a large gathering to the king in 1843 A. D., to end the intrigues going on between the queen and the heir-apparent. All these facts reveal that inspite of unfavourable conditions the local institutions, both in the villages as well as in the towns, continued to play an important role and they did not fail to assert their powers whenever such opportunities arose.

6. *Ibid.*, p. 360.

7. *Ibid.*, p. 360.

8. Petech, L.-*Materials for the Study of Nepalese History and Culture*, p. 171.

9. Levy, S.-*op. cit.* p. 363.

10. *Aitihasik Patra Samgraha*, Pt. II, pp. 53-54.

11. *Purnima*, (A Historical Magazine), V. S. 2021, Sravana, p. 22.

12. Levy, S.-*op. cit.*, p. 364.

13. *Ibid.*, p. 365.

CHAPTER II

THE VILLAGES AND THEIR FUNCTIONARIES DURING MEDIEVAL PERIOD

From the point of view of administration we may classify the villages of medieval period under three divisions : (i) the villages lying in the western part of Nepal or to the west of the river Kali, (ii) the villages lying in the eastern part of Nepal or to the east of the river Kali and (iii) the villages lying in Tarai area. (i) In the west a convenient number of farmers (or Zamindars) formed an unit which was called a 'Grama'¹ from administrative point of view. According to Hodgson² each village had an establishment consisting of one Dwaria, four Pradhanas, four Naikias and from five to ten Mahanias, who were entrusted with the functions of preventive and detective kind.³ Hamilton mentions existence of only one Pradhana in a village,⁴ along with certain other officials, which seems to be more reasonable from the detailed accounts about the functions.

The Dwaria and the Pradhana collected revenue and, at the same time, they superintended the police, kept peace and punished smaller offences by small fines and whippings.⁵ According to the above author's account⁶ the Pradhanas were the representatives of the community while Dwaria represented the government. This has been supported by the accounts of Hamilton⁷ also. The main function of Pradhana was the collection of revenue for which he got a deduction in rent and enjoyed some honourable distinction. Besides revenue collection, the Pradhana kept an account of other tenants regarding their payments and debts due to the government. He received what was due and transmitted it to the collectors.⁸ The Pradhana also, represented to the government, the cases and grievances of other farmers of his village. Over 20 to 50 Pradhanas, there was another officer named Kamin. He assisted the Pradhanas in settling their accounts and in obtaining favours from the government in case of

1. Hamilton, F.-*An Account of the kingdom of Nepal*, p. 113.

2. Hodgson, B. H.-*Miscellaneous Essays*, p. 230.

3. *Ibid*, p. 230.

4. Hamilton, F.-*op. cit.*, p. 113.

5. Hodgson, B. H.-*op. cit.*, p. 230.

6. *Ibid*, p. 237.

7. Hamilton, F.-*op. cit.*, p. 113.

8. *Ibid*, p. 113.

unavoidable losses. Further it was his duty to safeguard the interest of the cultivators and to induce new comers to occupy waste lands.

When the area was small the Pradhana managed it alone, but when it was large, he divided it into sections to be managed by officers appointed and removable by him.⁹

In the parts east of Kali river or in the eastern Nepal a similar organization existed but instead of Pradhana the officer was called Umra who was in charge of a Grama composed of a certain number of farmers. He was also called Mukuddum or Mahato. Over ten or twenty Gramas there was a higher officer named Desai or Chaudhuri, analogous to the Kamin of the western part. He was assisted by a Majumdar or an accountant.¹⁰

In Tarai area, the village functionaries included the Chaudhuri, the Kanungoye, the Mahaldar, the Mukuddam, the Jetharaiyat as well as Zamindar¹¹ In this case the Chaudhuri was at the apex of the system while for most of the village purposes the Zamindar played the role parallel to the Pradhana of the eastern districts, specially in collection of revenue. In Tarai like the eastern and western parts, the village functionaries looked after the law and order as well as justice in certain minor cases.

It is important to note that at the village level, in most parts of the country, the functions of collection of revenue, law, order and administration of justice to some extent were entrusted to the non-official functionaries who, of course, worked directly under the supervision of the central authorities at that level. These officials have functioned for considerable length of time during the medieval period, although the extent of their obligations and nature of works might have varied from time to time.¹² On the whole they seem to have played an important role in maintaining the central-local relationship as well as safeguarding the interest of the villages.

9. *Ibid.*, p. 113.

10. *Ibid.*, p. 102.

11. Regmi, M. C.-*Land Tenure and Taxation in Nepal*, Pt. I, p. 49

12. *Ibid.*, p. 127.

CHAPTER III

THE MEDIEVAL LOCAL INSTITUTIONS

A study of the writings on the medieval period reveals that the panchayat type of local institutions have been continuing under three names, more or less covering similar fields of action, viz. the Panchayat, the Guthi and the Amala, the former two continuing as the remnants of the old panchayat and Gosthi, while the latter being exclusively an institution of Kirat tribes. All the three institutions seem to have lost their elective character, but retained their more or less unofficial position, which had been recognized by the governments throughout this period.

The Panchayat :

The inscriptions of Licchavi period mention a number of functions assigned to the village panchayat and town corporations at that period. The evidence of the medieval age indicates that the panchayats probably lost much of their autonomy during this period. Nevertheless they continued to play an important role in the life of the community and at official level they were entrusted with the function of the administration of justice, throughout the age. An edict of king Ranajitamalla dated 1762 A. D.¹ clearly mentions the role of the local people in the administration of justice even at the state level. The edict runs, "if injustice is done by the king the higher officials (Bhardar) and the people (Duniya) shall petition before the king; if officials commit injustice, then the king and the people shall consider and the injustice done by the people shall be considered by the officials."² The above edict clearly indicates that the judicial powers were vested in the people to a certain extent, but it does not throw light on the type of agency through which it was administered. The later information, however, proves that the administration of justice was probably the only and the most important function assigned to the panchayats for which they functioned both as regular village courts as well as boards of arbitration to decide specific cases.

Panchayats as regular courts :

As regular courts, the panchayats were authorized to deal with most of the cases at village level. These courts were attended by the important persons and interests of the locality. According to D. R. Regmi, "The village courts of interior

1. *Aitihasik Patra Samgraha*, Pt. II, p. 74.

2. *Ibid*, p. 74.

were attended by the Tharis and Bhaladmins''³ (or elders and nobilities). The judicial powers of village panchayat courts, however, seem to be subject to the control and supervision of Dwaria, who was assigned this work by the government. Dwaria⁴ was responsible for the collection of revenue as well as settlement of the village disputes. In both these duties he had to move through the non-official agencies. In case of revenue collection he was assisted by the head-man of the village, viz. Mukhiya, Mukuddum, Mahato, Pradhana or Zamindar, differently designated at different places,⁵ while in his judicial functions he was assisted by a board of village or jury called the panchayat, which was attended by the respectable persons representing the various interests of the village (the Tharis and Bhaladmins). In important districts specially, towards the weak frontiers, the military officers called Faujdars were posted. They had the authority to decide small cases, but they had to do it always with the assistance of panchayats.⁶ In certain less important stations the officers named as Negis in the hills and Adhikaris on the plains, were stationed. They also decided cases by means of panchayats, with the deference that in former cases there was no appeal while in the latter, it was appealable before the higher courts.⁷ The village panchayat courts possessed the power to award fine and whipping in the small causes within their jurisdiction.⁸ However the general tendency was to resort to reconciliation in most of the civil cases and to avoid further litigation. According to an account of Hamilton "in cases of disputes or petty offences, one or the other of these officers (of village) called a kind of jury (Pangchait) and endeavoured to settle the affairs, so as to avoid trouble; but if one or the other of the parties was dissatisfied, they might go to the Raja's court."⁹ Another description of the same writer¹⁰ reveals that apart from these jurisdictions, these village panchayats were often entrusted with the work of on-the-spot enquiries in criminal cases. "The facts in the criminal prosecutions were often investigated by the inferior officers and panchayats on-the-spot and the chief and his chancellor, judged from their report what punishment was due."

These village panchayat courts had powers to realize certain fees from the contesting parties. According to Hodgson "when there is affirmation and denial by parties and the trial of right must be had, then the charge called Geri and Kaspan were attached."¹¹ He also mentions the charges of Jitauri and Harauri¹² realized

3. Regmi, D. R.-*Modern Nepal*, p. 301.

4. *Ibid.*, p. 301.

5. Hamilton, F.-*An account of the Kingdom of Nepal*, pp. 113-14.

6. *Ibid.*, p. 114.

7. *Ibid.*, p. 114.

8. Regmi, D. R.-*Modern Nepal*, p. 301.

9. Hamilton, F.-*op. cit.*, p. 102.

10. *Ibid.*, p. 114.

11. Regmi, D. R.-*Modern Nepal* p. 301.

12. *Ibid.*, p. 301.

from the plaintiffs and defendants. Regmi mentions existence of a small fee called Panphool¹³ by the panchayat courts, when the parties arrived at a settlement. This was about five to ten percent of the total value. These charges seem to be of more or less similar nature as the charges realized by the panchayats during the Licchavi period in the name of Nirnekshi Vyavahar Bhaga¹⁴ (निर्णेश व्यवहार भाग) or charge of the decision of a case and Sampratipatti¹⁵ (संप्रतिपत्ति) or charge for agreement in a case.

To sum up, the panchayats, although devoid of many of their functions, still continued to play an important role in the settlement of village disputes and in imparting quick, on-the-spot and cheap justice for the common man.

Panchayat as board of arbitration :

All the authorities (Hamilton, Hodgson, Levy & Regmi) on the medieval Nepal, without any exception accept the importance of the panchayats as boards of arbitration during that period. In both civil as well as criminal cases, the courts invariably used to refer the cases to the panchayats. This was done either at the discretion of the courts or on the wishes of the parties. The cases of assaults and adultery were generally not referred to the panchayats, while the cases of murder were taken as outside the panchayat jurisdiction.¹⁶ If a case was important and involved severe punishment or if either of the parties insisted, it was referred by Bichari or judge to the minister of Raja. The Raja after hearing the minister ordered the Bichari or judge of the district to try the case through a panchayat. In such cases the power of the panchayat was limited to the investigation of the case after which it submitted its report to the Bichari, giving its verdict whether the party was guilty of the crime alleged or not. On receiving this report the Raja consulted the Dharmadhikari or the authority on law and decided the punishment in that case.¹⁷ In general when a case was referred to a panchayat it functioned like a court of first instance.

These panchayats assembled in the court which ordered for their creation. They had no independent authority of their own to summon the witnesses or to compel the attendance of any witness, nor had they powers to secure the production of necessary papers. All these works were done by the court appointing the panchayat. The officers of the courts used to see that the members regularly attended the court.¹⁸ The panchayat had no authority to put its decision into action. It communicated its judgment to the court appointing it,¹⁹ which used to implement the decisions. The decision was taken by the unanimous opinion of the whole panchayat.²⁰ Since these

13. *Ibid.*, p. 301

14. Gnoli, R.-*Nepalese Inscriptions in Gupta Characters*, No. LXXXIII.

15. *Ibid.*, No. LXXXIII.

16. Hamilton, F.-*op. cit.*, p. 102.

17. *Ibid.*, p. 102.

18. Hodgson, B. H.-*Miscellaneous Essays*, p. 218.

19. *Ibid.*, p. 218.

20. *Ibid.*, p. 218.

panchayats met in the court there was no chance for unnecessary delay in justice. However in case of such delay, there was provision for taking back the case by the court which appointed the panchayat.²¹

Appointment of Panchayats :

These panchayats were not permanent bodies. Their members were appointed separately for each case. They were non-official bodies and the government never suggested their names. Normally the judges who ordered their appointment also did not volunteer to appoint the members of a panchayat. The members were appointed only with the consent of both the parties.²² Each party suggested five names and the government added another five from its own side, thus making it a board of fifteen Panchs.²³ If however, the parties expressly solicited through a petition, then it was not possible for them to appoint their own nominees, then only the government appointed its own nominees exclusively to sit and decide a case.²⁴

The selection of the members of these panchayats was subject to certain rules. In all cases in which the Parbattis or hill people were concerned it was obligatory to choose the members out of these main classes, viz. Arjal, Khanal, Pandey, Parath, Bohara and Rana, at the rate of one member from each class. If the case concerned the Newars, the Panchs were to be selected from Maikhe, Bhanil, Achar and Srestha. In matters affecting the persons who belonged to neither of the above two tribes there was no such restriction.²⁵ The above statement of Hodgson has been accepted by Levy who writes that "the members of Panchayat must be choosen in five Gurkha or five Newar clans"²⁶ if it concerned their affairs.

Thus even in the field of judicial administration, which was the sole function of panchayats in the medieval days, there seems to be two classes of panchayats, (i) the permanent bodies functioning at village level as primary village courts and (ii) the panchayat tribunals created separately for the cases which worked at higher level.

The Guthi System :

The Guthi system still exists as a powerful as well as sacrosanct system in Nepal. The origin of Guthi may be traced back in the Licchavi inscriptions which mention the existence of a number of Gosthis or committees each entrusted with a specific function. These Gosthis used to get grants of land for the performance of the duties assigned to them which is specially mentioned in *Lele*²⁷ inscription

21. *Ibid.*, p. 216.

22. *Ibid.*, p. 216.

23. *Ibid.*, p. 218.

24. *Ibid.*, p. 216.

25. *Ibid.*, p. 218.

26. Levy, S.-*Le Nepal*, Pt. I (English translation). p. 375.

27. *Abhilekh Samgraha*, p. 29-31.

of Licchavi period. There can be no doubt therefore about this Guthi system, which still continues to serve the society, as being one of the oldest institutions which has survived throughout the ancient as well as medieval ages. The functions performed by the Guthis record little change from those performed by the Gosthis of Licchavi period, so far as the nature of work is concerned. The slight change in its name in course of several hundred years may be taken as natural.

Thus the Gosthi of ancient period continued to function in the name of Guthi throughout the medieval period. The assignment of lands under it from time to time gave it a shape of religious trust, and the lands assigned to the Guthis in course of all these years for charitable, religious and philanthropic purposes has led to the creation of a separate land tenure which is named as the Guthi tenure.

The system has been regarded as sacrosanct by the people as well as the government, and as such lands found in excess of the original grants made to these Guthis have been legally considered as part of this trust.²⁸ Similarly whenever the government acquired a Guthi land for a certain purpose it always replaced that land. In addition to this, the individuals have from time to time placed their own lands under this trust and since once declared as a Guthi, a land cannot be reverted back to any other tenure, the system occupied a considerable part of land under it.²⁹

There have been various types of Guthis or trusts from the point of view of legal classification³⁰ : (i) Raja Guthi—It is directly managed and controlled by the state. This type of Guthi, now no more, exists as local institution, excepting that it is meant for the purpose of management of certain religious or philanthropic institutions. (ii) Darta Guthi—This type of Guthi or trust is operated by the private committees but is recognized in the official records, and as such it continues to exist as a local committee on the same lines as prescribed in the old Licchavi inscriptions. (iii) Duniya Guthi—This is a purely public institution. There have been numerous examples when lands from other tenures (viz. Birta, Raikar) have been transferred under Duniya Guthi (or public Guthi) for the performance of certain religious and social works.³¹ They are run by the committees created for this purpose. They are rarely recorded in the official registers. Nevertheless they are treated unofficially as equally sacrosanct. (iv) There is also provision of Guthi or trust committees under the monasteries. The lands put under this kind of Guthi have been meant for the management of the monasteries and after the expenses of monastery are met, the rest of the income may be utilized by the head of the monastery, who has been always appointed by the government.³² An inscription of Raja Siddhanarasingha³³ of medieval days records

28. Regmi, M. C.—*Land tenure and taxation in Nepal*, p. 27.

29. *Ibid.*, p. 27.

30. *Guthi Mulki Ain II*—Section 15, p. 5.

31. *Ibid.*, Section 15, p. 5.

32. Regmi, M. C.—*op. cit.*, p. 27.

33. Wright Daniyal—*History of Nepal*, p. 143.

the reorganization of twenty five Bihars in which there is reference to Jhatwaya Guthi under which Buddha Margis assembled to choose their leaders. The king made rules that the five oldest Bhiksus should be made the leaders and they were called Pancha Buddha. This clearly indicates the system of election and function under the Guthi in the medieval period.

Apart from this, the institution of Guthi has been very popular among the Newar tribes of Nepal in both the Shaivites as well as the Buddhists. According to Levy both in case of professional as well as religious functions, there has been provision for separate Guthis among them. In his words "the corporation with all its resorts is governed by a committee analogous to the Hindu Panch, and which bears in Nepal the name Gatti."³⁴ The system of Guthi divides and controls the duties devolved upon the Newars as caste, by virtue of its monopoly and thus has become a part of their daily life. The existence of a large number of such committees in social and religious life of Newars reveals that Guthi existed as a very powerful institution during the medieval period. A few examples of Guthis of Newars may be put here.³⁵ Busadhon Guthi—This is meant for the performance of the annual functions of temples, Bihars, Chaityas, etc. It also looks after their repairs. Bahi Guthi—It is the committee for the management of annual exhibition of the idols in the temples. Safu Guthi—It is meant for looking after old sacred literatures and manuscripts. Phuki Guthi—This is a social organization which deals with certain family worship as well as marriage and other social problems. Tisavicha Guthi—It is responsible for looking after the ornaments and valuables of the temples. There has been provision for certain committees for managements in connection with the death of a person also. They include: Sana Guthi—which is responsible for taking the dead body to the cremation place. Similarly Si Guthi is meant for helping in the functions after death and Vicha Guthi looks after the family of the deceased person. In the same way there has been provision of committees in the field of culture also. These committees are named as Daya Guthi, Gulabajo Guthi etc.

This net-work of Guthi system which covers the entire social 'philanthropic' and religious life of the Newars, who are supposed to be one of the oldest inhabitants of Nepal, itself proves the antiquity of this system. Levy being impressed by this system of Guthi writes,³⁶ "in this enchanted valley where religion has not yet completely stopped being a continuous chain of public festivals, each one of the caste is obliged to co-operate in the solemnities; the 'Gatti' designates by rotation the families that will have to fulfil on each, the prescribed duty and the execution of the duty is watched."

In addition to the religious and charitable functions the Guthi had been assigned certain judicial powers by the law.³⁷ It used to punish the breaches of

34. Levy, S.-*op. cit.*, p. 310.

35. Information by courtesy of Shri Chitradhara, the greatest living poet of Newari.

36. Levy, S.-*op. cit.*, p. 311.

37. *Ibid.*, p. 312.

certain social laws, in which the ordinary penalty had been fines, varying according to the gravity of the offences. But in cases where the fault of one man comprised the community as a whole the Guthi had powers to decree expulsion from the caste also.³⁸

The Amala :

A study of the Kirati documents reveals that powerful village organizations have existed among this tribe since the earliest periods. The early organization of the Limbu state was based upon a system of hierarchy running from the village up to the centre. Each village elected one Thakapewa for every three hundred population and for every five Thakapewas one Thakatumba was selected.³⁹ Another description⁴⁰ of probably later age informs us about the system of Amala which has been still working as the organization of the villages among the various sections of Limbu tribe as well as some other tribes of the hills. The state during medieval period was called Lagi among these people. Lagi was divided into ten sections each called a Thuma. Each Thuma was further divided into a number of Kipats which possessed its own organization named as Amala.⁴¹ Thus Amala was an organization of the unit which was named Kipat. The organization of Amala has been put under a committee composed of five officials, viz. the Subba, the Rai, the Karta, the Karobari and the Budhyauli.⁴² This committee or panchayat in the name of Amala has been functioning among different hill tribes specially the Limbus since long, but the name of the office-bearers vary from place to place. According to M. C. Regmi⁴³ the committee of Amala in the districts of Ilam and Dhankutta of Nepal consisted of six office-bearers, viz. the Subba, the Rai, the Karobari, the Karta, the Pagari and the Budhyauli. According to this source the council of Amala was headed by Amali in the district of Jumla, the other functionaries being the Thani, the Thari, the Budhyauli, the Mukhiya and the Jimmawal.⁴⁴

The existence of the system of Amala as a powerful institution in the medieval period has been proved beyond doubt. The Limbu area which existed as an independent tribal state was incorporated in the empire of Maharaja Prithwi Narayana Shah⁴⁵ in 1770 A.D., through a settlement between the tribe and the Gurkha king, in which he guaranteed the security of their traditional system, rights and privileges. It was due to this guarantee that the system of Kipat and Amala still continues among the tribesmen. The declaration of the king Prithwi Narayana Shah runs "we hereby confirm all the customs and traditional rights and privileges of your country. Join our nobles

38. *Ibid.* p. 312.

39. Chemjung, I. S.-*Kirat Ko Itihas*, p. 24-25.

40. *Ibid.*, p. 26.

41. Chemjung, I. S.-*op. cit.*, p. 24.

42. *Ibid.*, pp. 24-25.

43. Regmi, M. C.-*op. cit.*, p. 129.

44. *Ibid.*, p. 129.

45. *Ibid.*, p. 29.

and help them. Take care of the country as you did when it was ruled over by your own chieftains. Enjoy it from generation to generation as long as the land remains in existence."

The system of Amala is connected with a communal form of land tenure, with tax-free holdings. Land is held under a tribal system of village ownership or family ownership in which the individual has right only by virtue of his being a member of the social unit.⁴⁶ A chief of the unit is the custodian of land but not the owner of it. This type of tenure managed through the Amala councils has been existing mostly among the Limbu tribes of Dhanakutta and Ilam districts in the eastern Nepal, and among their several sub-groups called the Yakshas, the Arthapriyas, the Bhotes and the Majhiyas as well as the Tamangs of East no. 1 and no. 2 districts.

Little information is available about the functions of the individual office-bearers of Amala. But an appointment letter issued to a Thani in the district of Jumla in 1907 A.D.,⁴⁷ directs him to deposit the proceeds of certain taxes with the Amali or the chief of the council of Amala. The same document reveals the function of Mukhiya, (another office-bearer) as looking after military stores and bringing the waste lands under cultivation. This indicates the possibility of Amala being in charge of collection of taxes (on non-Kipat lands), management of waste land as well as looking after the military stores of the area.

The Amala councils of Limbus still exercise judicial powers in their own areas, which leads us to believe that such councils of other places also possessed similar judicial powers during medieval period. Further the Kiratimumdum,⁴⁸ an old scripture of the Kirat tribe, also confirms our belief that judicial powers were popularly vested in the councils of Amalas. The above-mentioned scripture prescribes: "in each village one old man should be selected as the chief leader and judge. He should administer justice among the people." Again it goes⁴⁹ "in case of quarrel among fellow brethren, you should go to the Pentubhyang (or the leader) of your village. That Pentubhyang will deliver justice. He will collect the Pasingpadang (or members). You can get real justice only if it is delivered after a meeting and discussion."

46. *Ibid*, p. 29.

47. *Ibid*., p. 49.

48. *Kiratimumdum*-Translated by I. S. Chemjung, pp. 202-203.

49. *Ibid*., p. 203.

DEVELOPMENT OF PANCHAYATS IN NEPAL
PART III
THE MODERN PERIOD

CHAPTER I

THE DEVELOPMENT OF GAON PANCHAYAT

No attempt to reorganize the village panchayats was made after the unification of Nepal, by the merging together of Baisi, Chaubisi and the three states of Kathmandu valley for more than a hundred and fifty years. However, panchayats existed as part of community life and they continued to function as village judicial tribunals as a matter of tradition. They had already lost their representative character as well as non-judicial functions. There was no separate legal power vested in them, and as such they continued at the mercy of Dwaria, Zamindars, Pradhanas or Talukadars, who possessed the legal authority for looking into the petty cases through the panchayats. The evidence produced by Hamilton¹ (1819 A. D.) and Hodgson² (1874 A. D.) clearly proves that panchayats were popular as judicial tribunals, at village as well as higher level and were recognized by the local chiefs or Rajas. Levy³ in early twentieth century mentions existence of panchayat only as judicial tribunal appointed by the courts. He does not refer at all to the existence of such panchayats at village level. This indicates that panchayats had ceased to function as village judicial institutions by that time. This is confirmed by the writing of Landon⁴ which came about twenty years later. While discussing the judicial reorganization of Maharaja Chandra, he remarks : "it is believed that he is now considering a revival of village panchayats in order to prevent frivolous and vexatious litigations." Thus according to this plan of Maharaja Chandra, the first attempt to reorganize the village panchayat system was made in B. S. 1983⁵ (1926 A. D.) which may be taken as the beginning of the modern era of panchayat in Nepal.

The Act of B. S. 1983 (1926 A. D.) was only an attempt to revive the judicial powers of the village panchayats. These panchayats were organized under the name of Manyajana Kachahari or court of respectable men, in the district of Dang-Deokhuri. The main function assigned to this panchayat-court was to bring reconciliation among the disputing parties in small cases. If it failed to bring agreement, it was authorized to direct such cases to the local communal panchayats or 'Amali.'

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1. Hamilton, F.-*An account of the kingdom of Nepal*, pp. 113-14.
 2. Hodgson, B. H.-*Miscellaneous Essays*, pp. 216-18.
 3. Levy, S -*Le Nepal*, Pt. I (English translation), p. 375.
 4. Landon, Parceval-*Nepal*, p. 179.
 5. Government of Nepal-*Gaon Panchayat Ain 2006*, Introduction, p. 1.

In B. S. 1987⁶ (1930 A. D.) panchayats were organized at nine places in the valley of Kathmandu. One panchayat was organized in a section of Kathmandu town; two in Bhaktapur area in the villages of Thimi and Nakdesh and six in the locality of Lalitpur in the villages of Lubhu, Sanagaon, Harisiddhi, Khokna, Chaubhar and Bandegaon. The above order⁷ provided for the panchayats composed of three persons of which the chief Panch was appointed by the government while the remaining two were elected by the people above twenty-five years in age, on the basis of one man voting from each house. For the panchayat of Kathmandu the Baraguruju or the chief priest was nominated as the chief Panch under this provision. The jurisdiction of these panchayats continued to be limited to the reconciliation⁸ between the parties as was provided in the case of Manyajana Kachahari.⁹ In B. S. 1993 (1936 A. D.) an order was issued for the establishment of panchayats in the villages of Tarai districts of Sabtari and Baitari as well as in the hill districts of East number two and West number three. The Barahakims (district magistrates) of these districts were allowed the discretion of organizing a panchayat for one village or for a group of four or five villages. According to this order the Talukedars or Zimewals became the chief Panchs, the other two members being elected by the people.¹⁰ The powers of panchayats continued to be the same as earlier viz. the reconciliation among the parties. This arrangement worked satisfactorily and requests were made on behalf of the people to increase the jurisdiction of the panchayats. As a result the government of Nepal issued a regulation in B. S. 2003 (1946 A. D.)¹¹ for Tarai area to be effective for two years only. According to this regulation the panchayats were composed of eight members of which seven were elected by the people while the eighth one was the chief Panch nominated by the government. They were assigned both judicial as well as other functions. The judicial powers of panchayats were extended to the trial of the cases upto a hundred rupees valuation on civil side and a fine of twenty-five rupees on criminal side. This was in addition to their powers of reconciliation. The most important power under this regulation was the provision that no case of the area could be filed in a court without a certificate from a panchayat. The other functions allotted to the panchayats included education, development of agriculture, irrigation, road, development of the area and peace and security.¹²

However, the above regulation could not be implemented. A movement for the grant of civil rights was going on throughout the country, which demanded uniform

6. Government of Nepal-*Khadganishana* of 1987 B. S.

7. *Ibid.*

8. Nepal Government-*Khadganishana* of 1987 B. S.

9. Nepal Government-*Gaon Panchayat Ain* 2006, p. 2.

10. *Ibid.*, p. 3.

11. *Report of Administrative Reorganization Commission*, 2020.
Government of Nepal, p. 9.

12. Government of Nepal-*Gaon Panchayat Ain* 2006, p. 3.

share in local administration in all the areas of Nepal, and the government felt the necessity of reconsidering the whole issue.¹³

In B. S. 2004 (1947 A. D.)¹⁴ a delegation from India consisting of Mr. Shri Prakash and Mr. Ram Ugrah Sinha visited Nepal at the request of the then Prime Minister Shri Padma Shamshe. Immediately after this visit a constitutional committee (Vaidhanik Samiti) was set up. On the report of this committee all the earlier panchayats, including the Manyajana Kachaharis were abolished and separate acts for village panchayat and judicial panchayats were issued in B. S. 2006 (1949 A. D.).¹⁵

The Gaon Panchayat Act of B. S. 2006 (1949 A. D.)¹⁶ was the first comprehensive Act providing for village panchayats. It accepted the already existing principle of organizing one panchayat either for one village or for a group of four or five villages. But in other respects the Act established a land-mark in the modern history of panchayats in Nepal, by providing for complete democratic set-up for them. According to this Act, the Gaon Sabha of a panchayat consisted of all adult members of the area, above 21 years in age, who had lived there atleast for one year. The members of Gaon Sabha elected a president and a Vice-President out of themselves. The Act¹⁷ provided for an executive committee named as panchayat which was elected by the Sabha. The number of the members of the panchayat was left by the Act to be decided by notification. The tenure of office of the members of panchayat as well as the President and the Vice-President of Sabha was fixed for three years. One-third members of panchayat retired every year. The members of panchayat elected a Pradhana-Panch and a Up-Pradhana-Panch out of themselves.

The functions of a Gaon panchayat were classed¹⁸ into two parts, the regular and the optional. The regular functions included the construction, repair and maintenance of roads and sources of domestic water supply; management of hospitals and maternity houses; cleanliness of the village; precautionary measures against epidemics; management of cremation places; protection of grazing grounds; management of panchayat property; construction and repair of new houses of panchayat; action against persons illegally occupying panchayat land; recording the census; establishment and management of primary schools; encouragement of agriculture and industries in the village; protection of life and property from fire; disposal of night soils and refuges; management of panchayat courts through the elected Panchs; management of kine-houses; improvement of the breeds of cattle; protection of agriculture from the

13. *Report of Administrative Reorganization Commission*, Government of Nepal (2020), p. 9.

14. Information by courtesy of Principal S. D. Pant (the Vice President of Kathmandu Municipality in 1947 A. D.).

15. *Report of Administrative Reorganization Commission*, Government of Nepal (2020), p. 10.

16. Government of Nepal-*Gaon Panchayat Ain* 2006, pp. 6-7.

17. *Ibid.*, pp. 8-9.

18. *Ibid.*, pp. 10-13.

animals; looking after the property of insane, parentless and minor children; and peace and security of the village. The optional functions provided were plantation of trees on road sides; establishment of co-operative societies; supply of improved seeds and agricultural implements; organization of centres for the development of physical health; arrangement of keeping the trades in dyeing and tanning of skin outside the inhabited areas; provision of radio sets and gramophones; lighting of roads and lanes, and establishment and management of markets and fairs.¹⁹

The judicial functions of panchayats were provided under a separate Act of B. S. 2006 (1949 A. D.).²⁰ It provided for a bench consisting of five Panchs. Three of them were taken out of the members of panchayat executive, including the Pradhana-Pancha, who was the ex-officio President of the bench. The remaining two were provided by the contesting parties at the rate of one each. The Act clearly defined the jurisdiction of the panchayat courts. The cases of bad character, gambling and weights and measures were subject to its jurisdiction, irrespective of valuation or punishment. On the other hand the panchayat courts had no jurisdiction over the cases of theft, outcasting, or those involving arrest or demand of security. The panchayat courts were given the powers of decision in the divorce cases of Newars and other tribes involving compensation of marriage expenses. In the same way certain cases of lower castes regarding their matrimonial claims were also put under the jurisdiction of panchayat courts. In addition to these, the panchayat courts were empowered to go through the complaints of tenants against the land-holders regarding mutation claims and issue of receipts.²¹ On the other hand the jurisdiction of panchayat courts regarding the reconciliation (Milapatra) was extended to all cases, irrespective of valuation, while, in general cases, the power of panchayat courts in deciding the cases extended upto the valuation of a hundred rupees on civil side and upto a fine of twenty-five rupees as well as three months imprisonment on criminal side.²²

The income of the panchayats under the Act of 2006²³ in addition to the Government grants and aids from individuals and other panchayats included mainly the receipts from taxes, fees and fines. The taxes included a five percent surcharge on land revenue and small taxes on profession and trade. The fees and fines included the income from the school fees, proceeds from cattle-ponds and fines in connection with the judicial decisions.

*The control over panchayat*²⁴: The Act provided for double check under which a village panchayat was subject to the control of the district pachayat as well as the government. The district panchayat was empowered to inspect the records of

19. Government of Nepal, *Gaon Panchayat Ain* 2006, pp. 10-13.

20. Government of Nepal, *Panchayati Adalat Ain*, 2006, pp. 203.

21. *Ibid.*, pp. 3-7.

22. *Ibid.*, p. 9.

23. *Ibid.*, pp. 18-19.

24. *Ibid.*, pp. 20-21.

village panchayats. The district panchayat was also authorized to inspect the functions and working of the Gaon Sabhas under its jurisdiction. The government control was, on the other hand, comprehensive. The Sadar Adda (central office) had powers to suspend a panchayat or to take back its powers if it went outside its jurisdiction. Similarly the district officer had powers to check implementation of a panchayat's work if it was likely to disturb the public peace. The district officer had also powers to order a panchayat to get a work done within a prescribed period and if it failed the officer could get it done by his own agency and charge the expenses from the panchayat.

In addition to this the Sadar Adda (central office) could supercede or even cancel a panchayat and appoint either a government official or an outsider to take over the management of it for the time being. The government had powers to issue rules from time to time and hear appeals against the decisions of the panchayats.²⁵

Altogether 171 panchayats were organized under the above-mentioned Acts in course of one year, which was followed by the revolution of B. S. 2007 (1950 A.D.) leading to a change in the government. The process of organization of panchayats, however, continued under the new set-up and by B. S. 2013 (1956 A. D.) altogether 791 village panchayats were organized.²⁶ But inspite of all efforts not more than eight to ten panchayats out of these seemed to be interested in the development works of their locality. In fact they devoted most of their energy in the use of their judicial powers.²⁷ As a result a new Panchayat Act was promulgated in B. S. 2013 (1956 A. D.), abrogating the Gaon Panchayat and the Adalati Panchayat Act of 2006.

The Act of B. S. 2013 (1956 A. D.)²⁸ for the first time accepted the principle of establishing the panchayats on population basis. It provided for the creation of a panchayat for about 2500 population in Kathmandu valley and Tarai, and for about 1000 population in the hills and Bhitari Madhesh. The Act retained the constitution of Gaon Sabha as well as Gaon Panchayat provided in the earlier Act of 2006 B.S. (1949 A. D.)²⁹ with the addition of the provision for the division of a panchayat into wards for the election of the executive.

Functions: The Act of B. S. 2013 (1956 A.D.) divested the village panchayats of the judicial powers.³⁰ But the general list of the functions remained the same as provided in the Act of B. S. 2006,³¹ excepting that the panchayats were empowered to run joint funds for the benefit of the villages in addition to other functions.³²

25. *Ibid.*, pp. 28-30.

26. *The Report of Administrative Decentralization Commission*, Government of Nepal 2020, p. 11.

27. *Ibid.*, p. 11.

28. *The Govt. of Nepal-Gaon Panchayat Ain 2013*, pp. 2-3.

29. *Government of Nepal-Gaon Panchayat Ain 2006*, pp. 6-9.

30. *Report of Administrative Decentralization Commission*, Government of Nepal 2020, p. 11.

31. *Government of Nepal-Gaon Panchayat Ain 2006*, pp. 10-13.

32. *Ibid.*, *Ain 2013*, p. 8.

Finance: The new Act added a few additional sources³³ of income to the earlier list viz. license on the carriages and fees on the sales and purchases in the markets and fairs in addition to the provision of joint funds. The joint fund provided for a compulsory contribution³⁴ of five percent of grains produced (after deducting taxes and expenses) by the land-holders, and one-fourth of the above amount by the tillers.

The central control : The system of central control provided in the earlier Act of 2006 B. S.³⁵ (1949 A.D.) continued, but along with the promulgation of this Act an elaborate arrangement was made by the government for the successful organization and functioning of the village panchayats. The whole of Nepal was divided into sixteen zones and one panchayat zone inspector was posted at each zone. Each zone was further subdivided into a number of parts, parallel to the revenue subdivisions, and for each of it one panchayat sub-inspector was appointed. Altogether sixty village panchayats were organized under this arrangement, but all of them were dissolved after some time.³⁶ It was followed by another administrative arrangement in B. S. 2016 (1959 A.D.) while the Panchayat Act of 2013 B. S. (1956 A.D.) continued. According to this arrangement thirty three panchayat officers at the rate of one for each administrative district were appointed along with one hundred and nine panchayat supervisors to reorganize the panchayats. These officers and supervisors were trained for one year prior to their being posted. This arrangement continued upto December 1960, when it was replaced by another system in early 1961 A.D., after the Royal take-over of the administration. Under this arrangement the whole of Nepal has been reorganized under fourteen Anchals and seventy five development districts. For each Anchal one panchayat officer has been provided while for each development district there is a panchayat supervisor.³⁷

After the Royal take-over, a hierarchy of panchayats, beginning from the village panchayats and ending at the National panchayat has been created under the name of panchayat democracy. The area of the local-self government, however, continues only upto the district panchayats, while the two higher level panchayats viz. the National panchayat and the Zonal panchayats may be considered as part of the central constitution. The introduction of panchayat democracy has led to the replacement of all the earlier Panchayat Acts by the new Acts of Gaon, Nagar and Zilla Panchayats issued in B. S. 2018 (1961 A.D.) and B. S. 2019 (1962 A.D.)³⁸ and amended under 4th amendment of 2022.

The Gaon Panchayat Act of B.S. 2018 (1961 A.D.) aims at the participation of the village population in social, economic and cultural development of the nation and its main emphasis is on the development functions of the village panchayats.

33. *Ibid.*, pp. 12-17.

34. *Ibid.*, p. 6.

35. Government of Nepal-*Ibid.*, Ain 2006, pp. 20-21.

36. *Report of Administrative Decentralization Commission*, Government of Nepal (2020), pp. 11-12.

37. *Ibid.*, p. 12.

38. *Ibid.*, p. 12.

Constitution : The Act retains the Gaon Sabha composed of all the adult members of the area above the age of 21 years.³⁹ It fixes up the number of the members of panchayat (or executive) at eleven. For the election of the executive the whole area is divided into nine wards each electing one member. The members of the Gaon Sabha directly elect a Pradhana-Pancha and a Up-Pradhana-Pancha. The tenure of office of the executive members or Panchs has been fixed for six years, one-third of the members of the executive retiring at the end of every two years.⁴⁰

Functions: This Act while putting emphasis upon the development functions, re-assigns the judicial functions taken away under the Act of B. S. 2013 (1965 A. D.). In the list of general functions, the Act adds⁴¹ a number of items not included in the earlier Acts, viz. provision of training for promotion of cottage industries; construction of goods sheds, godowns and ware-houses for storing the seeds and fertilizers; explaining the benefits of community works to the people of the area; promotion of co-operative movement; mobilization of voluntary labour for the welfare works; utilization of waste lands without altering them; organization of Grama Sewak Dal and provision of entertainments in its area. Thus the panchayats retain the powers mentioned in the list of earlier Acts including the management of the joint funds and get a number of new functions under this Act.

The judicial functions⁴² : The panchayats have been authorized to form Nyaya Samitis consisting of three members of the panchayat, two representing the areas of the two contesting parties while the third one is the Up-Pradhana-Pancha of the panchayat, who is the ex-officio presiding officer of the bench. The Nyaya Samiti is authorized to decide civil cases upto the valuation of rupees one hundred and criminal cases involving a fine upto fifty rupees and imprisonment upto three months. The power of reconciliation has been dropped under this Act.

The sources of income⁴³ : The Act empowers the panchayats to levy taxes (Kar), Dastur and Rakam. The taxes include a levy of ten percent in excess of land revenue and taxes on trade and profession, while Dastur and Rakam include the taxes on vehicles plying on the roads managed by Sabha and levy on the sale and purchase of goods in Bazars, Melas and Hats. The panchayats have also been empowered to call for labour contributions for public purposes. In addition to the grants-in aid from time to time for specific purposes the government has recently made provision for a grant of three hundred rupees for each panchayat for financing their self-help schemes.

There is no change in the system of government control. The old system of control still continues under this Act.⁴⁴

39. *Nepal Ain Samgraha* 2021, p. 99.

40. *Ibid.*, p. 104.

41. *Ibid.*, pp. 108-12.

42. *Ibid.*, pp. 108-12.

43. *Ibid.*, pp. 113-17.

44. *Ibid.*, pp. 101-104.

The rural population of Nepal has been calculated at about ninety lacs, spread up in about 29000 villages. Under the scheme of panchayat democracy these 29000 villages have been re-grouped under 3475 village panchayats, on the basis of 2500 people for each panchayat.⁴⁵ Thus the system covers from 7 to 12 villages under one panchayat.

Before the implementation of this scheme about 800 Grama-Sewaks were functioning under the village development programmes in various development districts. This staff has been retained and re designated as panchayat secretaries. About twenty to fifty villages are put under the jurisdiction of one panchayat secretary.⁴⁶ At the district level there is a panchayat development officer posted, who also acts as secretary of the Zilla Sabha. Besides this, there are a number of panchayat supervisors and other technical staff posted at district level to manage the working of the panchayat system.

45. *Gorkha Patra*-dated 3-1-2019, p. 4.

46. *Report of Shri B. K. Singh, Section Officer, Panchayat Ministry, p. 8.*

CHAPTER II

THE DEVELOPMENT OF NAGAR PANCHAYATS

The modern history of Nagar panchayats begins from B. S. 1976 (1919 A. D.), with the establishment of a Municipal Council for Kathmandu under the name of Safai Adda. The work of cleanliness of roads and lanes in the other two towns of valley viz. Lalitpur and Bhaktapur was placed under a separate government department called Chhimedel Adda. Under this arrangement an attempt was made to establish a municipality at Kathmandu and for this purpose the locality of Bhotahiti was selected on experimental basis.¹

It was purely a government-sponsored body composed of ten members, seven nominated from the public side and three from the government side. The nominees from the government side included the chairman, the engineer and the municipal officer.²

The functions assigned to this body included cleanliness of roads, common court yards of houses, and the latrines. There was provision for construction of public latrines also. A grant of fifty thousand rupees was made by the government for the purpose of managing these functions.³

As this arrangement could not work well, a new provision was made under the Act of 1979 B. S. (1922 A. D.). According to this Act the area of Bhotahiti was divided into four wards, each electing one member and five elective seats were allotted to the other municipal areas of Kathmandu town, thus making the number of elected representatives nine in all. On the official side there was provision of nine nominated members. The office of chairman was reserved for a government nominee with a casting vote in case of tie. The Act provided for elective seats upto fifty percent, no doubt, but with the casting vote of the chairman the trump card remained with the government. This arrangement ultimately failed because it was not acceptable to the elected members.⁴

The next attempt at the establishment of Nagar panchayat was made after twenty five years, in B. S. 2004 (1947 A. D.)⁵ when an Act was passed providing for a municipality for Kathmandu. It consisted of a council of thirty one members, twenty

1. Government of Nepal, *Nagar Panchayat Ain* 2007, pp. 1-2.

2. *Ibid.*, pp. 1-2.

3. *Ibid.*, p. 2.

4. *Ibid.*, p. 2.

5. *Ibid.*, p. 2.

one elected by the people and ten nominated by the government. The office of the chairman remained reserved for a government nominee while the post of vice-chairman was allotted to the elected members.⁶

The Municipal Council of Kathmandu worked quite satisfactorily under this arrangement, but ultimately it ended in resignation by all the elected members. In the meantime a constitution committee was appointed which led to the promulgation of a new Act for Nagar Panchayat in B. S. 2007 (1950 A. D.)⁷

The Act of B. S. 2007 (1950 A. D.)⁸ made provision for the establishment of Nagar panchayats in other towns of Nepal also, in addition to Kathmandu town. For this purpose the minimum number of population for the establishment of a Nagar panchayat was fixed to be 30000.

The council of Nagar panchayat was composed of a minimum number of fifteen and maximum number of fifty one members. Two-thirds out of the councillors were nominated by the government while one-third seats were allotted to the elected members. The tenure of office was three years with the provision of retirement of one-third members every year.⁹ The president of the council was appointed by the government. The election of the one-third members was made on the basis of adult franchise,¹⁰ with all the persons above 21 years of age having voting right. Thus the Act of 2007 B. S. (1950 A. D.) may be taken as a retrogressive step, compared to the Act of B. S. 2004 (1947 A. D.) so far as the composition of Nagar panchayat was concerned.

The functions allotted to the Nagar panchayats under this Act were more or less on the lines of the Indian municipalities. They were divided into two sections viz. the obligatory and the optional. The obligatory functions included arrangement for drinking water; cleaning of roads and lanes; removal of articles injurious to the health of people; disposal of unclaimed dead bodies; registration of death and birth; maintenance of asylums for mad and lepers; management of rest houses and Dharma-shalas; lighting of roads and lanes; control of weights and measures; destroying mad dogs and removing the stray dogs; precautions against epidemics; fire-fighting; organizing the health exhibitions; establishment of middle schools; numbering of houses; provision of house regulations; arrangement for wrestling and exercise centres; establishment of the hospitals and veterinary hospitals; management of kine-houses; control of dangerous trades in the area etc.¹¹

The optional functions of Nagar panchayat included management of zoo and museums; naming of roads; plantation of trees on road sides; keeping cars, buses and

6. *Ibid* , p. 2.

7. *Ibid.*, p. 2.

8. *Ibid.*, p. 3.

9. *Ibid.*, p. 6.

10. *Ibid.*, p. 6.

11. *Ibid.*, pp. 11-13.

12. *Ibid.*, p. 13.

other vehicles for public hire; prevention of cruelty to the animals; making provision for relief in case of natural calamities; arrangement for food and shelter for parentless, unclaimed and minor children; management of markets, fairs and exhibitions.¹³

The Act made provision for a number of taxes to be levied by the Nagar panchayats.¹⁴ They included tax on houses and holdings on annual rental value; tax on professions; vehicle tax; tax on pack animals and birds; tax on the loads; tax on the articles and animals entering the area (in addition to the custom duty charged by the government); water, latrine and sweeping tax if managed by the panchayat; fees from schools, libraries, Dharmashalas and dak-bungalow; fee for sanctioning of maps for house construction; tolls on roads, hospitals, tube wells, tanks, pipes etc., if managed by the Nagar panchayat.

The statement of income and expenditure was to be placed in the form of budget before the council every year.¹⁵

The Nagar panchayats were vested with the powers of appointment, dismissal and suspension of their officials having monthly salary upto fifty rupees. However, this power was subject to appeal to the government.¹⁶

The Nagar panchayats were vested also with the powers to appoint their committees, sub-committees, consultative committees and joint committees. In committees and sub-committees they could include persons from outside not exceeding one-third of the total number.¹⁷

The central control¹⁸ over the Nagar panchayats was exercised by the Sadar Taluk Adda. It consisted of the suspension and supercession, ordering completion of a work within fixed period, hearing appeals against the orders of the Nagar panchayats, checking implementation of a work likely to disturb public peace, issue of rules and regulations, appointment of the chief officer and employees getting more than fifty rupees monthly salary, inspection of records, control of budget, permission for loans etc.

The Nagar Panchayat Act of B. S. 2007 (1950 A. D.) was followed by the revolution which changed the pattern of the government. The autocratic Ranarchy was overthrown and a democratic government was established. As a result, the Nagar Panchayat Act was revised before its implementation through a notification issued by the Ministry of local self government.¹⁹ This brought substantial changes in the constitution of the Nagar panchayats. According to this²⁰ the minimum population required for a Nagar panchayat was reduced from thirty thousand to ten thousand or

13. *Ibid.*, p. 14.

14. *Ibid.*, pp. 14-16.

15. *Ibid.*, pp. 16-17.

16. *Ibid.*, p. 28.

17. *Ibid.*, p. 20.

18. *Ibid.*, pp. 28-30.

19. *Nepal Gazette* Aswin, 15-2003.

even less than this. All the seats were made elective on the basis of adult franchise. The offices of the President and Vice-president of Nagar panchayat were made elective, from the members of the council. The notification, however, made provision for the nomination of four or five members subject to demand made by the people.

By another notification²¹ of the ministry, the already existing twenty one blocks of Kathmandu Nagar panchayat were re-distributed into twelve wards with seventeen seats (five double-member constituencies and seven single member constituencies). Similarly the Nagar panchayat of Lalitpur was divided into ten single-member constituencies and the town of Bhaktapur into seven single-member constituencies.²²

Within a period of one year from the issue of this notification elections were conducted (in 1952 A. D.) in several Nagar panchayats of Nepal viz. Kathmandu, Lalitpur, Bhaktapur, Biratnagar and Birganj. The above-mentioned notifications were later confirmed by the Act of B. S. 2010 (1953 A. D.)²³ The Act created a completely democratic constitution for the Nagar panchayats for the whole of Nepal based on adult franchise. The maximum number of nominated members was put at one-fourth of the total number of membership. The Act clearly mentioned that the provision for the nominations was only meant for the representation of certain classes or interests.²⁴

In addition to the provision of the President to be elected by the majority vote of the members of the council, the Act also provided for a second ballot in case there were three or more candidates for the office of the president.²⁵ The tenure of office²⁶ for the members, the President and Vice-president was fixed at four years and the provision of retirement of one-third members every year was cancelled. The powers of the president²⁷ under this Act consisted of convening the meetings of Sabha and conducting them, supervision of the works of Nagar panchayat and maintaining discipline among the staff, general and financial administration and implementation of the resolutions of the Sabha, submission of reports, information etc. to the government, appointment, punishment, suspension and dismissal of the employees drawing monthly salary upto sixty rupees, creation of temporary posts in case of emergency.

The president had power to spend upto rupees 3500 a year in case of emergency and upto rupees 225 at a time under budget items. Besides these, it was the

20. *Ibid.*

21. *Nepal Gazettee* Kartik, 25-2008.

22. *Ibid.*

23. Government of Nepal-*Nagar Palika Ain* 2010, p. 6.

24. *Ibid.*, pp. 7-9.

25. *Ibid.*, p. 9.

26. *Ibid.*, p. 10.

27. *Ibid.*, pp. 21-25.

duty of the president to place before the Sabha reports about the administration as well as statements, records, plans, data etc. regarding the works.

The functions of Vice-President included working in the absence of the President and taking up works assigned to him by the President.

*The chief officer*²⁸ : The Act made provision for appointment of a chief officer by the government for each municipality. His salary was paid by the government and his qualification, tenure and other service conditions were subject to control by the government. However, a chief officer could be removed by the government on a resolution passed by the two-thirds majority of the council recommending the removal.

The powers assigned to the chief officer were²⁹ : implementation of the resolution of Nagar Palika and appointment, suspension and dismissal of employees having monthly salary upto forty five rupees. The specific functions assigned³⁰ to the chief officer included grants, suspension or cancellation of licenses, despatch of copies of resolutions, discussions and decisions of the Sabha, committees and sub-committees to the members (in case there was no post of secretary in a Nagar Palika) and other works assigned by the Sabha. The chief officer had power to spend upto 2000 rupees in a year in case of emergency and rupees 150 at a time under items sanctioned by the budget.³¹ He was entitled to participate in the discussions of the Sabha but had no right to vote. However the chief officer was entitled to vote in a committee or sub-committee in which he was appointed as a member by the president.³²

Peculiarly enough, the Act did not provide for any separate list of the functions assigned to the Nagar Palikas. The classified lists of detailed powers only reveal the functions like sanction of maps for construction of houses, construction and repair of roads, fixation of places for slaughter houses and various shops, control of the sale of meat, fish, fruits, vegetable and other food stuffs from the point of view of public health, destruction of mad dogs and fixing the places for the stands for various conveyances as well as places for the sale of animals etc.³³

The Act did not add any new item to the revenue of the Nagar Palikas and the items provided under the Act of 2007 B. S. (1950 A. D.) remained the sources of income under this provision also.³⁴ In the same way the system of the central control remained the same as provided in the earlier Act.³⁵

With the introduction of the panchayat democracy a new Act for Nagar panchayat was promulgated in B. S. 2019 (1962 A. D.). The Act introduces two important changes in the provisions of the Act of B. S. 2010 (1953 A. D.) :

28. *Ibid.*, pp. 25-26.

29. *Ibid.*, pp. 26-27.

30. *Ibid.*, pp. 27-28.

31. *Ibid.*, p. 27.

32. *Ibid.*, p. 28.

33. *Ibid.*, pp. 52-66.

34. Government of Nepal-Nagar Palika Ain 2007, pp. 14-17.

35. *Ibid.*, pp. 28-30.

(i) In case of the membership of municipal councils³⁶ the minimum number of nine has been fixed for a town with ten thousand population with a maximum of thirty three. There is an addition of one member for every 2500 population upto 15000, one member for every 4000 between 15000 and 24000, one member for every 8000 between 24000 and 48000 and after this one member is added for every 16000 population.

(ii) All the constituencies of the Nagar panchayats have been declared as single-member constituencies.³⁷

In functions, finance and central control the Act makes no change worth noting.

There are, at present, altogether fourteen Nagar panchayats in the whole of Nepal. Kathmandu with a population of 1.15 lacs has been allotted 29 seats. The remaining 13 Nagar panchayats cover a total population of 2.50 lacs and about 150 elective seats are allotted to all of them together. The items of taxes assigned to them have fetched a very small fraction of money required by them for their expenditure and they have mostly to depend upon the government annual grant which altogether did not exceed rupees 7.50 lacs for all the Nagar panchayats in 1963-64.

36. *Nepal Ain Samgraha* (2021), pp. 126-127.

37. *Ibid.*, p. 127.

CHAPTER III

THE DEVELOPMENT OF ZILLA PANCHAYAT

The Zilla panchayats were established in Nepal, for the first time under the Act of B. S. 2007 (1950) A.D.).¹ The Act provided for a single body both for deliberative as well as administrative purposes and was named as the Zilla panchayat. It consisted of two types of members, ordinary and special.² The ordinary members of the Zilla panchayat consisted of all the Pradhana-Panchs of the village panchayats within its area and the representatives of the town panchayats. The special representatives were elected by the following special interests of the district on the basis of one from each: (a) zamindars, (b) businessmen, (c) factory owners, (d) educated persons and (e) factory labours.

The voting rights as well as the qualification for the election of the special representatives³ were subject to certain limitations. For the election of a zamindar representative the qualification for eligibility of the membership as well as for franchise was restricted to those paying a minimum of one hundred rupees as land revenue in hill areas or rupees five hundred in Tarai areas. For the election of a business representative the franchise was limited to those paying rupees one hundred as bazar tax in hill areas or five hundred rupees of bazar tax in Tarai area while it was essential either to have a minimum capital of one thousand rupees for hill areas or entry of name in red register (LALKHATA) for Tarai area to be eligible for the election from this constituency. The voting right for electing the representative of the educated class required a minimum qualification of at least first grade pass in Nepali or middle pass in English. The eligibility for the membership, on the other hand, required a minimum qualification of Madhyama in Nepali or Matriculation in English. The representative of the factories was elected by the board of the registered mills of a district. In the same way the election of the representative of factory labour required the enlistment of name in labour voters' list.⁴

After the election was completed the Zilla panchayat elected a Pradhana-Panch out of its own members. The Pradhana-Panch conducted the proceedings of the meetings and presided over them.⁵

1. Govt. of Nepal - *Zilla Panchayat Ain* 2007, pp. 4-5.

2. *Ibid.*, pp. 2-4.

3. *Ibid.*, p. 3.

4. *Ibid.*, p. 3.

5. *Ibid.*, p. 4.

Functions : The regular functions of Zilla panchayat under this Act⁶ included construction and repair of roads, bridges, culverts etc. in its area and the repair of the main roads passing through it, establishment of hospitals, veterinary centres, dak bungalows, schools, poor houses, leper and lunatic asylums, planting of trees on the road sides, relief in famine and other calamities, precaution against the epidemics, checking trades of harmful articles, registration of births and deaths, inspection of accounts of the village panchayats, supervision of village justice etc.

The optional functions⁷ of Zilla panchayat included cleaning of un-healthy and filthy places, development of education, management of transport services, organization of agricultural and industrial exhibitions and improvement of the breed of cattle.

The income of the Zilla panchayat⁸ provided in this Act included : (a) tolls on the district panchayat roads, bridges, hospitals, tube-wells, pipes, tanks, canals, river banks and veterinary hospitals, (b) income from agricultural and industrial exhibitions and bazars opened by it including tax on the sale and purchase of articles in them, (c) license fee on vehicles entering and leaving the area as well as those plying within the area, (d) tax on entertainments, (e) fees from libraries, sarais, dak-bungalows and schools, (f) fifty percent of government grants sanctioned for the panchayats, twenty percent of the income of panchayats and a share in tax on property realized by the government.

The government had right to appoint the officials of the Zilla panchayat drawing a monthly salary of more than fifty rupees also.⁹

The Zilla Panchayat Act of B. S. 2007 (1950 A. D.) was replaced by the Zilla Panchayat Act of B.S. 2019 (1963 A.D.), under the plans of the panchayat democracy. The new Act introduced a substantial change in the constitution and functions of Zilla panchayats, while the sources of income and system of control remained the same as in case of the former Act.

According to this Act¹⁰ the Zilla panchayat consists of the Zilla Sabha and the Zilla panchayat. The Zilla Sabha is composed¹¹ of elected representatives from the Gaon panchayats as well as Nagar panchayats. Each Gaon panchayat is allotted one seat for Zilla Sabha while one-third of the total number of seats of the Zilla Sabha is assigned to the Nagar panchayats within that area.

The functions¹² assigned to the Zilla Sabha are as follows: election of the members of Zilla panchayat (executive), discussions on the budget placed by the Zilla

6. *Ibid.*, pp. 10-13.

7. *Ibid.*, p. 13.

8. *Ibid.*, pp. 13-15.

9. *Ibid.*, pp. 19-21.

10. *Zilla Panchayat Ain 2019 (Nepal Ain Samgraha 2021, pp. 151-156.)*.

11. *Nepal Ain Samgraha 2021, p.p. 152-153.*

12. *Zilla Panchayat Ko Yojana p. 1.*

panchayat, and evaluation of the development programmes undertaken by Zilla panchayat.

*Zilla panchayat*¹³: It is the executive body of the Zilla Sabha. It consists of a President, a Vice-President and nine other members. All the eleven members including the President and the Vice-President are directly elected by the Sabha. The term of office of members of Zilla panchayat is six years and one-third of them retire at the end of every two years.

The main functions¹⁴ of Zilla panchayat include (i) development of education, health and culture; (ii) improvement in agriculture, animal husbandry, irrigation, road, bridges and home industries; (iii) implementation of all the district level plans put by the government; (iv) inspection of the accounts of Gaon and Nagar panchayats and issue of directions to them from time to time; (v) helping the Anchal panchayats in development works; (vi) re-distribution of grants allocated by the central government or Anchal panchayats among the Nagar and Gaon panchayats; (vii) preparation of a single district plan by joining together all the plans produced by various Nagar and Gaon panchayats; (viii) putting suggestions before the government about the development works as well as the working of the district institution¹⁵ and (ix) other functions allotted by the government.

Finance: The Act of 2019 B. S. does not provide for any substantial change in the items of taxes provided under the Act of B. S. 2007¹⁶ and the earlier list seems to have been maintained. Therefore the income of the Zilla panchayat still includes¹⁷ tolls on roads, bridges, sources of water supply, river banks etc.; income from agricultural fairs and industrial exhibitions and bazars including taxes on sales and purchases in them; licenses on vehicles, tax on entertainments, fees from libraries, schools, sarais, dak-bungalows etc.; fifty percent of government grants sanctioned for panchayats and ten percent of the income of the village panchayats and Nagar panchayats.

The suggestions for the allotment of fresh resources have been made by the panchayat conference¹⁸ as well as by the Decentralization Commission¹⁹ which may be implemented in the near future. Further with the development schemes being entrusted to the Zilla panchayats fresh government grants also are visualized.

Control: The system of double control by the central secretariate as well as the Anchaladish continues under this Act, along with the powers of inspection,

13. *Nepal Ain Samgraha* 2021, p. 156.

14. *Zilla Vikas Yojana*, pp. 1-2.

15. *Ibid.*, pp. 1-2.

16. Government of Nepal- *Zilla Panchayat Ain* 2007, pp. 13-15.

17. *Nepal Ain Samgraha* 2021, p. 165.

18. *First Zilla Panchayat Development Conference*, pp. 73-76.

19. *Report of Administrative Decentralization Commission*, pp. 24-25.

supercession and suspension.²⁰ There is no change mentioned by the Act in this respect. However the provision of a panchayat secretary²¹ appointed by the central government for each Zilla panchayat has been an important development in the system of control and co-ordination. The district panchayat secretary being a man from the civil service may provide an important link between the local and central government. Further it is supposed to bring a change in the attitude of the civil service as well as a closer control and supervision over the local bodies.

20. *Nepal Ain Samgraha* 2021, p. 166.

21. *Ibid*, p. 162.

CHAPTER IV

CONCLUSION AND SUGGESTIONS

The objectives of panchayat :

In creating the new system of panchayat, the government of Nepal has tried to bring the historical and cultural trends of Nepal in line with the modern requirements of planning and development. The main object of the system is to establish legally competent and authorized local institutions which may safely be entrusted with the decentralized authority for policy-making and implementation. A second and equally important object is to establish an institutional framework, within which the rural people may actively participate in the process of development.

This involves the basic problems of¹ (1) mobilization of man and material, (2) change in the outlook of the people and (3) proper training and experience.

The mobilization of man and material involves full utilization of under-utilized elements of labour force and the untapped revenue potentials of the local community in support of locally initiated small scale, self-development activities, which may benefit the local community as a whole. The productive use of unused human material as well as financial resources has a double benefit of creating a social overhead capital and at the same time affording an opportunity for a large number of people to participate directly in the improvement of their own community.

Change in out-look : "There is no such thing as an inherently poor land, there are only poor people"² in Nepal. Therefore there is need of bringing a radical change in the attitude of the agrarian population towards their environment as well as towards their own government. The people must feel that the panchayat is their own institution, and active and voluntary participation should come from them. The traditional isolation of the governed from the government must be broken down. It may not be easy to create consciousness in the people who have been idle, uneducated, downtrodden and exploited for hundreds of years, simply by transferring powers to them. On the other hand there is the danger of developing lawlessness unless proper assessment of their capacity is made before transfer of such powers. At the same time it may not be possible to bring a change in the outlook of the people and

1. Project Agreement between the U. S. A. and the Government of Nepal, sheet No. 1/19.
2. Cool, J. C.-*The Panchayat System and Self-help Development*, pp. 1-2.

create consciousness in them, unless responsibilities are put upon their shoulders.³ By offering them an opportunity to successfully demonstrate to themselves their ability to plan and execute, a confidence can be developed in the local institutions as well as in their leaders which may create competence in administration and capacity for managing greater autonomy.⁴

The ultimate objective of the panchayat is, of course, the emergence of administrative competence, attitude and values, which will create and support an active participant society. But the complex and varied changes which may be needed to achieve this end, may not be brought through the agencies of development projects only. The development projects however may bring a feeling of co-operation and co-ordination required for an all-round development of the local institutions.⁵

At the same time the change in the outlook of the people can only be possible, if the bureaucracy realizes that the real power is vested in the elected representatives of panchayat and their duty lies in helping these representatives in running the administration efficiently. For this, the age-long attitude of ruling over the people shall have to be given up and the officials will have to adjust themselves to the new circumstances and be prepared to be guided by the new masters.⁶

However, the goal of self-government through the panchayat cannot be achieved only by the transfer of certain powers to them. For this there is need for the change in the tax structure, improvement in public administration and broad programmes of education⁷ in addition to the implementation of the changes in land-tenure going on.

Problem of training and experience :

It is the personnel and organization, rather than funds or materials that constitute the primary problem in establishing the panchayat system on sound basis. The success of panchayat system requires effective administrative machinery to manage the system, sufficient number of trained personnel to understand the problems of local administration, and conscious people to exercise effective control. This involves training of the people of the locality and of the elected representatives in addition to trained administrators and technicians.

The primary goal of the training is to bring about a qualitative improvement in elected village and district leadership, but at the same time due attention must be paid towards the need of upgrading the quality of village and district level personnel of the department of panchayat also, in which appropriate type of instruction, guidance

3. *Report of Administrative Decentralization Commission* (2020), Government of Nepal, p. 53.

4. Project Agreement between the U. S. A. and the Government of Nepal, sheet No. 1/19.

5. *Ibid.*, sheet No. 2/12.

6. *Report of Administrative Decentralization Commission* (2020), Government of Nepal, p. 54.

7. Cool, J. C -*op. cit.*, p. 1.

and practical experience for field workers should be provided. It must be well recognized that the purpose of staff training is to enable them to critically examine the relationship between the rural population and their environment, to identify the primary problems which impede the effective achievement of the panchayat development programmes.

The importance of indentifying and training voluntary local leadership cannot be denied and from this point of view most of the suggestions put forth by the Training sub-committee of District Panchayat Development Conference are valuable and relevant to the experience of the place. At the same time while recognizing the ultimate aim of replacing the appointed official by the elected local people, in course of time, it must be well realized that it may not be practicable, to train the elected village representatives in the same way and in the same course, as the development workers. Therefore due care should be taken to make the training more realistic and in accordance with the capacity and standard of the village people. The training course for elected representatives should therefore emphasize the developing of a wide range of useful rural skill such as rough planning and estimating, basic construction and carpentry methods, timber and stone works, the mixing of concrete and construction of bridges, culverts and roads etc., in addition to the basic knowledge in the principles of administration and development.

The ultimate objective should be to train and upgrade the quality of local leadership to the point where the salaried staff can be reduced to a minimum. But it must come gradually so that the elected leadership may develop the capacity to pick up and grasp the whole thing. If local government is to be truly local, control of it must rest in the hands of the elected leaders at the village and district level and not in the hands of paid advisors or like service people. Therefore the training schemes of the elected leadership should aim at acquainting them with their departmental works and the importance of such works. For this purpose they should be given lessons in the implementation of various plans and projects and the way in which they should use the powers vested in them in the best, as well as collective interest of the locality. At the same time they should be made to realize their responsibility well, so that the chances for misuse of their powers are reduced. Finally they must be trained in the basic principles underlying the system of panchayat.

In order to enable the people to exercise effective control over their own representatives, it will be necessary to have intensive and continuous training programmes for the people as a whole at regular intervals. This should be in the form of public meetings, preceded and followed by cultural and other programmes.⁸ In between these programmes the basic idea behind the scheme of democratic decentralization and people's role in it, should be explained. It should be insisted upon that the panchayats call meetings of their voters as frequently as possible. It is however

8. *Report on Local Government in Yugoslavia*, p. 85.

not necessary to call a meeting of a panchayat population as a whole at the same time. It may be held separately in the localities or wards. The present provision of two compulsory meetings a year may be supplemented by a number of other meetings in which, plans, programmes and achievements should be explained and the reactions of the people ascertained.

The experience is, however, a matter of time. It has great importance from the point of view of bringing efficiency in the working of the institutions. For this purpose it has been suggested by the Decentralization Commission to transfer the powers to the panchayats in stages, while realizing that the ultimate aim is to get the participation of the people at all levels and in all works. In the first stage only the development works should be assigned to them. Otherwise there is a danger of their energy being diverted in administrative functions, at the cost of the development works.⁹ In gradual transfer of functions, due care should be taken to see that they have gained sufficient efficiency and experience for the purpose and every transfer of power should be followed by proper evaluation about their use of the additional powers and the tackling of the problems arising out of them.¹⁰ In all this care should be taken to act as friend, philosopher and guide rather than boss and chastise them.

The Problems of functions :

The Acts of B. S. 2018 and 2019 (1961 and 1962 A. D.)¹¹ assign a number of functions to the panchayats at the village as well as at district level, while the Decentralization Commission¹² suggests the transfer of many more functions to them. These functions may be classified under three heads, from the point of view of the present problems, viz. (a) the development functions, (b) the general functions and (c) the judicial functions.

Top priority has been given to the development functions in Nepal, as is the case in every under-developed country. On the other hand opinions vary on the transfer of administrative, legislative and judicial functions to the panchayats immediately. While agreeing in principle to the ultimate transfer of almost all powers and functions excepting defence and foreign relations to the panchayats, the Decentralization Commission¹³ suggests gradual, cautious and step-by-step transfer of functions. Cool,¹⁴ on the other hand, has been in favour of circumscribing the judicial and legislative functions of panchayats in order to enable them to carry out effectively development programmes during early years.

The development functions: The main purpose of emphasizing the development functions has been threefold¹⁵ : (a) to use the unused local resources both

9. *Report of Administrative Decentralization Commission* (2020), Government of Nepal p. 17.

10. *Ibid.*, p. 57.

11. Government of Nepal--*Gaon Panchayat Ain* 2018 and *Zilla Panchayat Ain* 2019.

12. *Report of Administrative Decentralization Commission* (2020). Government of Nepal, p. 17.

13. *Ibid.*, p. 17.

14. Cool, J. C.-*The Panchayat System* etc. p. 5.

human as well as natural; (b) to acquaint the people with their rights and duties and bring change in their mental outlook; and (c) to encourage people to undertake decisions affecting them at their own level and to manage the projects according to the will of the people. The development functions in Nepal involve two types of projects, viz. (i) those which are to be prepared and run by the village panchayats under the self-help schemes, and (ii) those which are to be run with the aid of Zilla panchayats.

Under the present circumstances it has been felt that the temptation of an uniform programme from the top to the bottom should be avoided at all costs, because it is likely to mar the local incentives. The national programme, on the other hand, should be based upon the activities which satisfy the needs of the village people. "The voluntary co-operation of fifty men in a community project is more significant than the participation of five hundred men in a government-imposed programme."¹⁶

The obstacles on the way of handling the plans at local level are, lack of economic resources, lack of efficient organization and non-availability of technical personnel. But the topmost problem lies in making people conscious about their own economic backwardness and getting them interested in removing it. It is encouraging that the government of Nepal has been able to procure labour donations worth crores of rupees for development works so far, but unless it comes out voluntarily and with clear understanding of its values, the purpose of panchayat cannot be served.¹⁷ The second panchayat conference puts three suggestions for the successful carrying out of the development functions at village level. Firstly that the district panchayats should put their whole energy towards activating the Gaon panchayats by making them interested in eradicating their economic backwardness. Secondly the district panchayats should convince the Gaon panchayats that they are the basic source of energy rather than agency of the former. Thirdly since the plans prepared by the higher agencies may not create interest in the village people, they should be encouraged and helped in preparing their own plans in the context of their local problems, and also try to find out the solutions of the local problems by themselves.¹⁸

The main aim of the village development projects is to create development-minded, well organized and conscious society for which it is essential to let them manage small development works out of their own intelligence and labour.

The plans suggested by the Gaon panchayats may be analysed according to their needs, and priorities fixed accordingly in the final approval of plan, priority may be given to those projects which are felt essential by the people and are likely to be helpful in their economic development directly. In implementing a project it is essential to do it in an impressive way, otherwise it may not be able to create interest among the people. Therefore care should be taken to select such plans and projects, as

16. Cool, J. C.- *op. cit.*, p. 5.

17. *Report of the Second Panchayat Development Conference (2021)*, p. 9.

18. *Ibid.*, p. 11.

are likely to yield immediate results and are beneficial to the extent of attracting the active participation of the people. If the men and material supplied by the people do not yield proper results, it may lead to discontent frustration while, on the other hand, if it leads to direct benefit it may develop self-confidence and a sense of dedication among the people.

The General Social, Administrative and Legislative Functions :

The commission suggests complete decentralization of powers at district panchayat level in course of time. The functions to be transferred in the meantime to the district panchayats¹⁹ are listed as law and order, public health, education, communication, agriculture, forest, finance, social reforms etc. according to the interest and capacity. The office²⁰ of the Barahakim (district magistrate) is to be abolished and the powers utilized by him has been suggested to be distributed into two sections for the time being, the law and order and anti-corruption being transferred to the zonal commissioner, while the distribution of essential goods, supervision over district official, and other miscellaneous functions going to the Zilla panchayats.²¹

In the same spirit the commission suggests, "the village panchayat is the basic unit of government, and as such it is to be vested with all the powers and functions excepting defence and foreign relations. The Gaon Sabha shall act as the legislature while Gaon panchayats as the council of ministers" at village level.²²

While realizing the importance of the necessity of clear demarcation of the functions of Zilla panchayats and Gaon panchayats, the commission suggests certain specific functions to be assigned to the Zilla panchayats²³ immediately viz., (1) maintenance of an inspectorate of police and a platoon of armed constabulary for the security of the district, (2) management of reformatory, jails with prisoners upto two years imprisonment, (3) management of middle and primary schools, fifty-bed hospitals, control of forests, registration of census, management of postal services and control of industries upto 100 horse powers, (4) issue of licenses for radios, guns, transport vehicles and motor-driving, (5) management of projects involving maximum expenditure upto ten thousand rupees.

Most of the functions suggested by the commission have already been mentioned in the list of the functions of Zilla panchayats under the Act of B. S. 2019 (1962 A. D.). However, they have not been implemented so far. Some of them are new responsibilities. Social management forms one of the important planks of local self-government, but the main problem is to manage them along with the economic enterprises. This not only involves financial problems, but there is danger of the public mind being diverted from the main plans and projects. Further all these may mean too

19. *Report of the Administrative Decentralization Commission of Government of Nepal* (2020), p. 22.

20. *Ibid.*, p. 28.

21. *Ibid.*, p. 58.

22. *Ibid.*, p. 17.

23. *Ibid.*, p. 22.

much load and responsibility on these growing institutions. On the other hand the social development cannot be delayed for running the economic enterprises for a long time. Therefore there is need to adjust most of them under the projects, while the transfer of administrative and legislative functions may be delayed. The general social functions are not to be considered from the point of view of administration only, they are to be looked from the point of view of the area required for catering to the people also. Thus it may be suggested that while leaving the implementation of the projects with the panchayats, some of the social functions like schools, hospitals, social welfare etc. may be left under the management of the boards of beneficiaries or under social institutions. This has been tried in Yugoslavia²⁴ where the economic enterprises are managed by the workers while the institutions and services like education, public health and social welfare are managed by the beneficiaries. This may take away some load from the panchayats and at the same time expand the area of public interest. Further it may be helpful in adjusting those functions which require larger area for catering than the village panchayat and smaller areas than the district panchayat.

The management of the institutions of public utilities by the beneficiaries has great potentiality. It provides for a healthy avenue for the participation of a large percentage of adult population, in activities which directly concern and vitally affect their well-being, and at the same time it leads the trained people to shoulder direct responsibility in the local government.²⁵ These people may elect their own governing bodies within the framework of the policy laid by the government and run the institutions, for which the budget allotment will be managed by the local body or the government.

Judicial Functions of Panchayat :

The Act of B. S. 2018²⁶ has made provision for judicial functions for the village panchayat courts, but it has not been implemented so far. The Act provides for a bench of five, of which two represent the areas of the contesting parties and three from the panchayat, the Up-Pradhana-Panch being the presiding officer. The jurisdiction of the court has been restricted to small causes. It has been suggested that a proper provision should be made for the training of these judges so that the chances of misuse of powers may be reduced.²⁷

The merits of local justice in imparting on-the-spot, quick and cheap justice, cannot be denied. It avoids false depositions and unnecessary litigations. On the other hand the main difficulties in the way of transferring the judicial function to the village panchayat have been : (1) the chances of diverting the public mind from the implementation of the projects; (2) lack of qualified persons in the area to handle the

24. *Report on Local Government in Yugoslavia*, p. 86.

25. *Ibid.*, p. 86.

26. The Government of Nepal, *Gaon Panchayat Ain* (2018), pp. 115-16.

27. *Report of the Second Panchayat Development Conference*, p. 44.

judicial functions and (3) the possibility of group rivalries affecting the impartiality in justice.

As a remedy against the first difficulty, it may be suggested that a separate Nyaya panchayat be elected instead of putting the judicial functions under executive of the panchayat as has been done at present. While the second and third difficulties can be removed only after the people attain a level of political consciousness. Proper training of the judges and arrangements for the supervision of village courts, may help in removing these defects to a considerable extent. On the whole, there seems to be enough agreement on all sides for entrusting the judicial powers to the villages.

On the other hand, the transfer of judicial powers with the district panchayats, suggested by the Decentralization Commission²⁸ does not seem to be practical. The commission suggests that the Ilaka courts should be abolished and the power of justice should be vested in the district panchayats. It suggests the election of judges for a period of three years subject to qualifications fixed by the government.

There is no question of the delivery of on-the-spot justice at district level. On the other hand control of justice by the elected panchayats may lead to political influences, and finally, the election of judges will put emphasis on the popularity rather than on qualification, integrity and impartiality to the judges. Therefore the transfer of judicial power to the district panchayats may be avoided.

Problems of Local Finance :

The finding out of finance for the management of local functions has been a problem throughout the world. But it is more acute in a developing country like Nepal which is solely dependent upon its agricultural economy. The capacity of the people to pay taxes is limited and unless the productivity of the community increases there is no chance of finding out new sources. Therefore there is no hope that the panchayats may be self-sufficient in near future. An increase of taxes or enhancement of the rates of taxes also are not likely to yield much. The only way is to increase the productivity and in an agrarian society productivity will increase only when the farmers are afforded some incentive to improve their crops, which means land reform and basic structural change in the society.²⁹

The taxes levied by the panchayats have two purposes : (1) to find out the resources for the works undertaken by them and (2) to create real interest among the people in the projects undertaken by them. Therefore it is essential to have a few direct taxes levied in order to develop people's interest in the panchayats. It has been suggested that as far as possible these taxes should be progressive, so that extra burden may not fall upon the poor people.³⁰

28. *Report of Administrative Decentralization Commission*, Government of Nepal (2020), p. 24.

29. Cool. J. C.-op. cit., p. 5.

30. *Report of Second Panchayat Development Conference* (2021), p. 16.

For finding out additional resources for the functions undertaken by village panchayats, the Decentralization Commission has suggested the following additional sources³¹ :

1. Ten percent of the land revenue of the area.
2. Five percent of the income and profession tax levied in the locality.
3. Registration fee upto the valuation of 2000 rupees.
4. License fee on radios, guns, transport vehicles and motor-driving (fifty percent of this income shall go to the district panchayats).

For the district panchayats the additional sources suggested by the Commission include :

1. Fifty percent of land revenue.
2. Twenty percent of income tax.
3. Registration fee on the valuations between 3,000 and 50,000 rupees.
4. Fifty percent share in the license fee on radios, guns, transport vehicles and motor-driving.
5. Income from the fines realized by the courts.
6. Road-cess on the district roads.
7. Share in the road-cess, electric and canal taxes realized by the central government.
8. Royalty on the installation of industries upto 100 horse powers.

A birds-eyeview on the taxes suggested reveals that they may increase the income of the district panchayats to a certain degree. Fifty percent of land revenue, registration fee on the valuation upto 50,000 rupees and road-cess are likely to fetch substantial amount. So far as the taxes assigned to the village panchayats are concerned, with the exception of ten percent of land revenue, no other item is likely to yield much. The license fee and registration fee have not much scope in the villages.

The plans and projects have already put extra burden on the village communities by the implementation of self-help programmes, for which these resources do not seem to be sufficient. Further the ten percent surcharge on the land revenue in addition to the fifty percent increase of the revenue under the national budget has already taxed the people to a considerable extent. Therefore the only hope of finding out fresh resources lies in the change in the basic structure of society by introducing land reforms and abolishing zamindars and talukadars who are working as middlemen.

A weightage in the grants-in-aid for the development programmes has been suggested by the first District Development Conference³² of panchayat on the following basis :

- (a) lack of communication in the area,
- (b) scarcity of drinking water,

31. *Report of Administrative Decentralization Commission, Govt. of Nepal (2020)*, pp. 18-19.

32. *First District Panchayat Development Conference (2020)*, p. 78.

- (c) lack of small-scale industries,
- (d) lack of public health centres and hospitals and
- (e) less production of food-stuff than needed in the area.

The above suggestion is worth considering, taking into consideration the difficult hills and backward areas of Nepal. But as far as possible *ad hoc* grants should be avoided.³³ It is not very conducive to the healthy growth of the local bodies. In order to ensure the implementation of the plans, both the district as well as village panchayats may be given specific grants and, if possible, percentage grants. The suggestion for transfer of major part of the land revenue to the panchayats has already been made³⁴ and this may help the panchayats to a considerable extent.

The issue of central-local relationship.

The Problem of Control :

According to the suggestion made by the Decentralization Commission³⁵ the direct administration of the central government shall continue only up to the Anchal after which the sphere of the autonomous local-self government shall begin. The commission proposes to define the functions of the central government and local government putting the functions of national importance with the central government while transferring the functions of local importance to the central government while transferring the functions of local importance to the panchayats. Even out of the functions under central list it proposes to define the limits of the central sphere by transferring the functions like fifty-bed hospitals and schools under the district panchayats. Similarly the commission is in favour of clearly defining the sphere of district panchayats and village panchayats also.³⁶

It suggests that the general policy of the central government shall be of non-interference in the affairs of the district panchayats. However the interference may be justified on two occasions, either on demand of the panchayat, or on reports of mal-administration.³⁷ Thus if these proposals of the commission are accepted the panchayats may be vested with substantial autonomy.

For the implementation of panchayat autonomy the Commission proposes to abolish the post of Barahakim (district magistrate) and ultimate transfer of all his powers to the district panchayat. The office of Barahakim wields sufficient power in the administration and unless there is proper understanding between him and the district panchayat, the scheme of decentralization cannot move. The alternative to the abolition of the post of Barahakim may be achieved through creating a change in the outlook of the administrative officials and making them realize the importance of the elected institutions. The abolition of the post may create vacuum which would be

33. *Report of Local Government in Yugoslavia*, p. 84.

34. *Report of Administrative Decentralization Commission*, Government of Nepal (2020), p. 19.

35. *Ibid.*, p. 21.

36. *Ibid.*, p. 21.

37. *Ibid.*, p. 21.

difficult for an elected body to fill in. The post of Zilla panchayat secretary which has already been created, however, may fill the gap if proper administrative powers are vested in him.

The scheme of decentralization is likely to divest the permanent officials of almost all powers of taking decisions, but at the same time they must be armed with necessary powers to enable them to implement the decisions efficiently. The role of district panchayat secretary is vital in the administration of local government and he must be allowed due prestige and position and be vested with all the powers with regard to the implementation of the functions in order to bring efficiency in the local administration.

The control and supervision over the panchayats may be exercised through three agencies³⁸ : (i) the people, (ii) the higher panchayat and (iii) through the governmental administrative and technical officials. In order to enable the people to exercise control over their elected representatives, it will be necessary to have an intensive training for them. In order to exercise control through the district panchayats, it would be essential to define the powers of the village panchayats and the district panchayats clearly and certain positive powers of legislative and financial control as well as powers of inspection should be vested in the district panchayats. On the other hand, the aim of such control should be corrective rather than fault-finding. The governmental control should be administrative and technical, in order to bring efficiency and check the misuse of powers. The attitude of the officials in dealing with the elected representatives must change and the habit of issuing orders should be replaced by advice and guidance.

38. *Report on Local Government in Yugoslavia*, p. 85.

POST SCRIPT

After Royal take over in December 1960, a new constitution was drafted by a committee headed by Shri Rishikesh Shah. The constitution was formally approved and put into practice in 1962. It is a short document but contains both the structural outlines as well as the objectives and ideology of the system. The constitution as amended in 1966 aims at a new type of democracy. It accepts the principles of welfare state and a democracy based upon popular will. The character of democracy as defined in the constitution is based upon the following principles :

- (a) A decentralized pattern of Government with democracy rising from the bottom.
- (b) Active participation of masses and inclusion of maximum number of people's representatives in administration.
- (c) Democracy without party.
- (d) Establishment of social justice and a society free from exploitation.

On the basis of these principles a structural framework of government has been prepared under this constitution. The area of local-self government so far existing upto the districts only, has been connected with the centre through hierarchy starting from village Panchayat and ending with the National Panchayat. There are altogether four layers of Panchayats viz. the village and town Panchayats, the district Panchayats, the Zonal assembly and the Rashtriya Panchayat. The village Panchayat is composed of a village assembly consisting of all adult members of a village and an executive called Panchayat consisting of eleven members, nine elected through wards and the remaining two, the Pradhana Panch and the Up-Pradhana Panch are directly elected by all the adult members of a village. The tenure of office of Pradhana and Up-Pradhana Panch is four years while each of the members of Panchayat or executive is elected for a term of six years, one-third of them retiring every two years. It is important to note that in election of Pradhana and Up-Pradhana Panchs it is essential for candidates to secure a minimum of fifty percent votes in order to be elected. In the same way there is provision for re-call of each of the eleven executive members or Panchs by two-third majority of the village assembly. Extensive powers in connection with development and some local justice have been granted to them. There are several taxes assigned to them to meet their expenses in addition to central government grant. There is a proposal to transfer from five percent to ninety-five percent of land-revenue to the Panchayats according to their needs.

There are altogether sixteen town Panchayats in Nepal. The minimum population required for establishment of a town Panchayat is 10,000. The number of membership varies between nine and thirty-three. The election is on the basis of single-member constituency and adult franchise for which the whole area is divided into a number of wards. In addition to the elected numbers, there is provision for nomination by government of not exceeding $\frac{1}{4}$ of the total elected members, provided that the nominated members cannot be elected to the district assembly. The members of town Panchayats elect one Pradhana Panch and one Up-Pradhana Panch out of themselves. The term of office of Pradhana and Up-Pradhana Panch is four years while all other members are elected for a period of six years, one-third of them retiring every two years.

The functions of a town Panchayat may be classified as follows :

1. Public health.
2. Public welfare.
3. Education.
4. Development.
5. Administration of village.
6. Judicial works.
7. Cultural and moral developments.
8. Helping the district Panchayat and central government where ever needed.
9. Miscellaneous.

District Panchayat is the second layer of the hierarchy of Panchayat system. But it is supposed to play the most important role under the pattern of government. It is here that the units of local-self government meet the central agency. The higher hierarchy or Anchal Samiti now remains as part of administration rather than a political hierarchy and the Anchal Sabha is only an electoral college for the election of the members of Rashtriya Panchayat or National Assembly.

There are altogether 75 districts in Nepal. Each district Panchayat is composed of a general assembly and an executive committee. The district assembly is called Zilla Sabha while the executive is called Zilla Panchayat. The district assembly is composed on the basis of one representative from each village Panchayat and one-third of the total elected representatives are elected by the town Panchayats within the district. There is provision for a few nominations by government if needed and enacted.

The district Panchayat or executive is composed of eleven members including one chairman and one vice-chairman. All these eleven members are elected by the district assembly through secret ballot. The term of office of the members of district Panchayat including the chairman and vice-chairman is four years. The members of district assembly are elected for a term of six years, one-third of them retiring every two years.

The functions of district Panchayat may be classified as follows :

1. Development of district.
2. Agriculture and animal husbandry.
3. Public health and welfare
4. Education.
5. Cottage industries and co-operatives.
6. Administrative works.
7. Direction, inspection and supervision of village and town Panchayats.
8. Co-operation in the works of central government.
9. Some judicial functions.
10. Miscellaneous.

The district Panchayat gets ten percent of the total revenue of village and town Panchayats within its area and a substantial amount as grants-in-aid for development and other works. In order to handle the functions of district Panchayat an official secretary has been supplied to it. Previously the Chief District Officer who is a class II gazetted Officer, used to hold this post in addition to his own administrative duties, but recently this function of district Panchayat Secretary has been assigned to the Panchayat Development Officer who is a class III Officer. This has been done for two reasons : (a) increasing development activities of district Panchayats and (b) for better politico-administrative co-ordination.

The third type of Panchayat system is Zone or Anchal. There are altogether 14 Anchals, each headed by an Anchaladhis or Commissioner whose post is constitutional and the appointment is made by His Majesty. It is a political appointment. Each Anchal has an Anchal Sabha or assembly. It is composed of all the members of district Panchayats or executive of the districts, lying within the area of a particular Zone. It was supposed to be a deliberative body but it now remains as an electoral college only. These 14 Anchals elect 90 representatives for Rashtriya Panchayat each forming a constituency for election of a member of National Parliament. There is an Anchal Samiti or Zonal Council appointed by the Zonal Commissioner (Anchaladhis) to aid and advise him. After abolition of Anchal Panchayat the Anchals now remain more or less co-ordinating body and sometimes the experts on the system have expressed doubt about its justification as a part of Panchayat hierarchy. Actually Anchal Samiti is part of administration as an advisory body only while Anchal Sabha has no other function than the election of member of National Parliament.

Rashtriya Panchayat or National Parliament stands at the apex of the Panchayat Pyramid. It is composed of 125 members of which :

- 90 are elected by the district Panchayat members on zonal basis,
- 15 are elected by class and professional organisations,
- 4 are elected by the graduates, and
- 16 are nominated by His Majesty.

The term of office of ninety members elected on zonal basis is six years, one-third of them retiring every two years. The term of office of the members elected by class and professional organisations, the graduates and those nominated by His Majesty is four years. The Rashtriya Panchayat of Nepal is a unicameral, permanent, legislative chamber. The chairman of Rashtriya Panchayat is appointed by His Majesty on recommendation of the House. The vice-chairman is directly elected by the House. Both of them are taken out of the members and term of office for each of them is two years.

The function of Rashtriya Panchayat or National Assembly is mainly legislative and financial. In this respect it remains virtually as the first partner, the second being His Majesty.

It has powers to amend the constitution, but there it participates through its standing committee (or guidance committee) as one of the three partners, the other two being the standing committee of Raj Sabha (like Privy Council) and His Majesty, where the final authority lies with His Majesty. It controls the cabinet through criticism and control over budget.

The administrative hierarchy of Panchayat system has also been organized on the principle of decentralization. The whole of Nepal is divided into 14 zones and 75 districts. Each zone has a Zonal Commissioner or Anchaladhish and one or two Assistant Commissioners. The post of Commissioner is constitutional and the appointment is on political basis. The Commissioner of Bagmati zone or the Capital has special status and he is called the Chief Commissioner.

The functions of a Commissioner consist of :

1. Law and order,
2. Administrative directions,
3. Implementation of plan and projects, and
4. Function of co-ordination etc.

Each district is headed by a Chief District Officer. There are a number of other officers like Panchayat Development Officer and technical staff.

The role of C. D. O. under Panchayat system has become vital after 1971. As a civil servant he is directly responsible to the Zonal Commissioner but as chief of a district he wields great authority. His functions consist of :

1. Maintenance of law and order,
2. Co-ordination of district level works, and
3. Certain Judicial functions also.

Looking at the difficult communication and inaccessibility of many districts, the C. D. O. or Chief District Officer becomes the sole authority of the area. But his work is at the same time difficult also. He needs enough balance drive and capacity of leadership to maintain harmonious relationship with his own chief, various departments of secretariate which have their field-agencies, the technical experts and finally with the district level leadership which is more conscious of its position and more important for implementation of development projects.

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dated 356 | — Gnoli VIII,
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date missing | — Gnoli X |
| 4. Adi-Narayan inscription (Basantdeva)
dated 428 | — Gnoli XII |
| 5. Lagantole inscription (Basantdeva)
dated 435 | — Gnoli XIII |
| 6. Kisipidi inscription (King's name missing)
dated 449 | — Gnoli XIV,
Levy VI |
| 7. Balambu inscription (Basantdeva)
dated 454 | — Gnoli XV |
| 8. Balambu inscription (Basantdeva)
dated 482 | — Gnoli XIX |
| 9. Mangalbazar inscription (Shivadeva)
dated 517 | — Gnoli XXIII |
| 10. Tulacchen tole inscription (Shivadeva)
dated 517 | — Gnoli XXIV,
Bendell 1 |
| 11. Golemadhitole inscription (Amsuvarman)
dated 517 | — Gnoli XXV,
Levy IX |
| 12. Dharampur Inscription (Amsuvarman)
dated 518 | — Gnoli XXVI |
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dated 518 | — Gnoli XXVII,
Bhagwan Lal Indraj-1 |
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dated 520 | — Gnoli XXX,
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dated 520 | — Gnoli XXXI,
Levy XII |

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18. Changunarayana inscription (Amsuvarman) date missing	— Gnoli XXXIV
19. Harigaon inscription (Amsuvarman) dated 32	— Gnoli XXXVI, Levy XIV
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21. Sundhara inscription (Amsuvarman) dated 34	— Gnoli XXXVIII, Bendell-2
22. Bungamati inscription (Amsuvarman) dated 34	— Gnoli XXXIX, Bhagwan Lal Indraj-6
23. Jya-Bahal inscription (King's name missing) dated 536	— Gnoli XL, Bhagwan Lal Indraj-4
24. Ganesh temple Pashupati inscription (Amsuvarman) dated 39	— Gnoli XLI, Bhagwan Lal Indraj-7
25. Bhansahiti inscription (Amsuvarman) date illegible	— Gnoli XLII
26. Watutole inscription (Amsuvarman) date missing	— Gnoli XLIII
27. Kisipidi inscription (Amsuvarman) date missing	— Gnoli XLIV
28. Taujha inscription (Jishnu Gupta) dated 48	— Gnoli L, Bhagwan Lal Indraj-9
29. Balambu inscription (Jishnu Gupta) dated 49	— Gnoli LI
30. Adeshwara inscription (Jishnu Gupta) date missing	— Gnoli LII
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36. Pashupati inscription (Jishnu Gupta) missing date	— Gnoli LIX, Bhagwan Lal Indraj-11
37. Yengahiti inscription (Jishnu Gupta) dated 64	— Gnoli LXI

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|-----|--|---|--|
| 38. | Sonaguthi inscription (Vishnu Gupta)
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| 39. | Deo-Patan inscription (Narendradeva)
dated 69 | — | Gnoli LXV |
| 40. | Yengahiti inscription (Narendradeva)
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| 41. | Lumjhya inscription (Narendradeva)
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| 42. | Kasaitole inscription (Narendradeva)
dated 71 | — | Gnoli LXVIII |
| 43. | Cyasaltole inscription (King's name missing)
dated 95 | — | Gnoli LXXII |
| 44. | Pashupati Vajraghara inscription (Narendradeva)
dated 103 | — | Gnoli LXXIII,
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| 45. | Yengu Bahal inscription (Narendradeva)
date missing | — | Gnoli LXXIV,
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| 46. | Sankhu inscription (King's name not mentioned)
undated | — | Gnoli LXXV,
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dated 137 | — | Gnoli LXXIX |
| 51. | Lagantole inscription (King's name missing)
dated 145 | — | Gnoli LXXX,
Bhagwan Lal Indraj-14 |
| 52. | Thimi inscription-date and
Kings' name missing | — | Gnoli LXXXII,
Levy XIX |
| 53. | Narayana Chour inscription
date and King's name missing | — | Gnoli LXXXIII,
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| 54. | Khapincheko inscription (Lalitpur)
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| 55. | Bhasmeshwar inscription (King's name not mentioned)
dated 455-Abhilekh Samgrah Pt. I, p. 26 | | |
| 56. | Lele inscription (Shivadeva) dated 526
Abhilekh Samgrah, Pt. I. pp. 29-31. | | |
| 57. | Kathe Simbhu inscription (King's name and date missing)
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58. Anant Lingeshwar inscription (Narendradeva)
dated 80 or 89
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59. Valatole inscription (No name of King, undated)
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60. Bahalukha (Patan) inscription (Basantdeva)
dated 435
Abhilekh Samgrah Part V, p. 7
61. Chaptole inscription (Patan)
(No King's name-no date mentioned)
Abhilekh Samgrah Pt. V, p. 8
62. Nala Lagantole inscription (Shivadeva)
dated 118 Abhilekh Samgrah Part V, p. 11
63. Patan Mangalbazar inscription
(King's name not mentioned) dated 170
Abhilekh Samgrah Part V, p. 12
64. Balambu Pasinkhya inscription (Basantdeva)
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Abhilekh Samgrah Part V, pp. 13-14
65. Museum inscription (Amsuvarman) date missing
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76. Bhatiprolu inscription (of 200 B. C.)
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77. Paheva inscription of Garibnath temple
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78. Gupta inscription No. 5 Plate III B
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Vol. III. p. 31

CORRIGENDUM

<i>Page</i>		<i>Line</i>	<i>Incorrect</i>	<i>Correct</i>
1.	Footnote	— 1	Mookergee	Mookerjee
7.	Para 4	— 3	અચાટભટ અપ્રવેશ	અચાટભટ પ્રવેશ
8.	Para 3	— 1	There	Three
11.	Para 2	— 10	Prajanam	Pradhanam
12.	Para 2	— 10	ference	reference
13.	Para 3	— 5	Shalva	Shaiva
17.	Para 4	— 4	and	as
18.	Para 1	— 11	Cohabitants	"Cohabitants"
22.	Para 4	— 13	સર્વતલ ગ્રામે:	સર્વતલ ગ્રામૈ:
27.	Para 1	— 14	Gaustika (ગોષ્ઠિકા)	Gaustika (ગૌષ્ઠિક)
40.	Para 2	— 5	affecting	affecting
50.	Para 2	— 2	and	as
51.	Para 2	— 20	'a tax on board'	'a tax on hoard'
52.	Para 2	— 5	Subject of	subject to
97.	Para 1	— 1	The act	The act of 1964
97.	Footnote	— 1	2021 page 99	2022 page 16



